

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

Cr1.OP No.1743 of 2013
and MP.No.1 of 2013

D.L.Raja

.. Petitioner

- Vs -

Shahar Banu @ Banu

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to quash M.C.No.82 of 2012 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.R.U.Dinesh Rajkumar

For Respondent : Mr.S.Sivalinga Kesavan
Legal Aid Counsel.

ORDER

This Criminal Original Petition has been filed to call for the records in M.C.No.82 of 2012 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2. The respondent filed a petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 before the Protection Officer. After due enquiry, the Protection Officer made reference to the learned Magistrate and the learned Magistrate taken cognizance of the complaint in M.C.No.82 of 2012 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai. During the pendency of Maintenance case, the petitioner filed the present petition seeking to quash the proceedings in MC.No.82 of 2012.

3. The learned counsel for the petitioner would submit that the respondent is not the wife of the petitioner's brother Late.D.L.Ramachandra Rao. During the lifetime of D.L.Ramachandra Rao, the petitioner's sister sent notice to the respondent herein, for which, she has sent reply notice, wherein, the respondent herself admitting her as tenant and the said D.L.Ramachandra Rao also sent reply notice to his sister

stating that the respondent was a housemaid and she has only taken care of his old age mother. In the said reply notice, the respondent never admitted that she lived in shared household with the late D.L.Ramachandra Rao. Further, the respondent already married late Segu Ibrahim and she is also having children and they were permitted to stay in the kitchen of the portion occupied by D.L.Ramachandra Rao. There was no domestic violence Act is attracted and hence, the proceedings in MC.No.82 of 2012 has to be quashed.

4. Heard the learned counsel for the petitioner and the learned Legal Aid counsel appearing for the respondent and also perused the entire materials available on record.

5. On a careful perusal of the records, it is seen that the petitioner himself stated that there was a living-in relationship between the petitioner's brother and the respondent. Even after the death of D.L.Ramachandra Rao, the respondent is living in the same house and now, the petitioner threatened her with dire consequences. Therefore, the respondent filed a complaint before the Protection Officer. After due enquiry, the Protection Officer made a reference to the learned Magistrate. The learned XXIII Metropolitan Magistrate, Saidapet, Chennai, after gone through the entire materials, taken cognizance of the complaint in MC.No.82 of 2012. As per the averments made in the complaint, the respondent has clearly stated that she had living-in relationship with the petitioner's brother.

6. This Court is of the view that whether there was any living-in relationship between the petitioner's brother and the respondent can be decided before the Trial Court after trial. Therefore, this Court is not inclined to invoke Section 482 Cr.P.C to quash the proceedings in MC.No.82 of 2012 and this petition is liable to be dismissed.

7. Accordingly, this Criminal Original Petition is dismissed. The counsel for the respondent on record, who was appointed by the Tamil Nadu State Legal Services Authority, Chennai from the Legal Aid Panel is entitled for the fees as per the rule. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

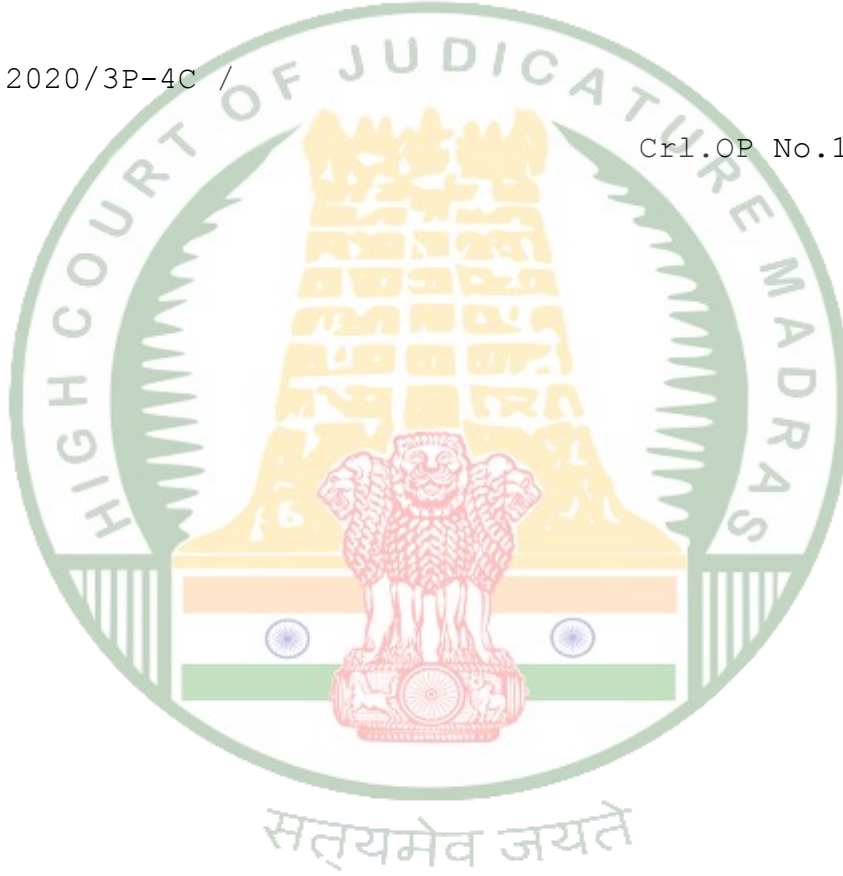
To

1. The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Secretary,
Tamil Nadu State Legal Services Authorities,
Chennai.

+1 cc to M/s.R.V.Dinesh, Advocate Sr.No. 104598

AKM/07.02.2020/3P-4C /

Crl.OP No.1743 of 2013



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