

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.O.P.No.28225 of 2013

&

M.P.No.1 of 2013

M.Periyasamy

... Petitioner

Versus

1.Selvi

2.Protection Officer,
Domestic Violence Act,
Chennai - 600 001.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. pleaded to quash the proceedings in M.C.No.47 of 2013 pending on the file of the XVIII Metropolitan Magistrate, Saidapet.

For Petitioner : Mr.Guruprasad

For Respondents : No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in M.C.No.47 of 2013 pending on the file of the XVIII Metropolitan Magistrate, Saidapet.

2.Learned counsel for the petitioner is present and none appeared on behalf of the respondents.

3.It is submitted by the learned counsel for the petitioner that the petitioner died but, till date, the counsel did not file any proof about the death of the petitioner. But, according to the learned counsel appearing for the respondent, the petitioner is alive. Hence, in an earlier occasion, this Court directed the Inspector of Police, Kallakurichi to enquire whether the petitioner is alive or not and also directed him to submit the report of the same.

4.As directed by this Court, the Inspector of Police enquired and he produced the certificate of the VAO that the petitioner is bedridden for the past three years, due to the accidental injuries.

5.The first respondent herein had filed a petition in M.C.No.47 of 2013 before the XVIII Metropolitan Magistrate, Saidapet, seeking for maintenance. There is no ground to quash the same. Since there is no proof of evidence to show that the petitioner is not alive, the petitioner is at liberty to take his defence before the Magistrate Court.

6.In such circumstances, this Court is not inclined to quash the proceedings in M.C.No.47 of 2013 pending on the file of the XVIII Metropolitan Magistrate, Saidapet. Therefore, the Criminal Original Petition filed under Section 482 of Cr.P.C is dismissed with liberty to the petitioner to take his defence before the Magistrate Court. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

klt
To

1.The XVIII Metropolitan Magistrate,
Saidapet.

2.The Production Officer,
Domestic Violence Act,
Chennai-600 001.

3.The Chief Metropolitan Magistrate,
Saidapet.

+1cc to Mr.M.Guruprasad, Advocate Sr.99274

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and
M.P.No.1 of 2013

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srg 10/02/2020