

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 30.11.2018
DELIVERED ON : 20.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Crl.R.C.No.1628 of 2016 and
Crl.M.P.No.13391 of 2016
and
Crl.R.C.No.68 of 2017

R.Nivendran ... Petitioner

Vs

Nivashini Mohan (Also known as M.Nivashini)
Represented by Power Agent E.Mohan ... Respondent

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, against the order dated 05.08.2016 made in C.A.No.271 of 2016 on the file of the VII Additional Sessions Judge, Chennai.

Crl.R.C.No.68 of 2017

Nivashini Mohan (Also known as M.Nivashini)
Represented by Power Agent E.Mohan ... Petitioner

Vs

1.R.Nivendran
2.B.Ranjan
3.Sarojini
4.Sowbarnika
5.A.Saravanabhavan
6.Viji ... Respondents

Prayer: Criminal Revision filed under Section 401 r/w 397 of Criminal Procedure Code, to call for the records in C.A.No.271 of 2014 on the file of the VII Additional Sessions Judge, City Civil Court, Chennai and set aside the order dated 05.08.2016.

(In both the Crl.R.C.s)
For Petitioners : Mr.Thomas T.Jacob
(Petitioner in Crl.R.C.No.1628 of 2016)
(Respondent in Crl.R.C.No.68 of 2017)

For Respondents: Mr.C.T.Mohan

for Mr.R.Vijayaraghavan
(Respondent in CrI.R.C.No.1628 of 2016)
(Petitioner in CrI.R.C.No.68 of 2017)

COMMON ORDER

There are two revision petitions. One Revision has been filed by the Husband in CrI.R.C.No.1628 of 2016 wherein he has challenged the modified order of the learned VII Additional Sessions Judge, Chennai in C.A.No.271 of 2016 whereby a sum of Rs.5000/- was ordered to be paid to the minor child even though both the Lower courts have found that there is no domestic violence citing sections in the Hindu Adoption and Maintenance act which has no applicability to the Domestic Violence Case. The other Revision has been filed by the Wife in CrI.R.C.No.68 of 2017 challenging the order of the learned VII Additional Sessions Judge, Chennai in C.A.No.271 of 2016 and to grant her reliefs under the provisions of the Domestic Violence Act.

2.The wife has filed an Application in the Magistrate Court under Section 12 against her husband and against his parents who are arrived as Respondents 2 and 3, his sister who is Respondent 4, his mothers sister and her husband who have been arrived as Respondent 5 and 6 for relief for protection orders under Section 18 (c), (d), (e) & (f) and for residence order under Section 19 (1) (a), (b), (d), (e), 2, 3, 5, 7 and for compensation under Section 20 (1) (a), (b), (c), (d), 2, 3, 4, 5, 6 and under Section 22 of the Protection of Women from Domestic Violence Act 2005 (43 of 2005).

3.The Domestic violence case in M.C.No.69 of 2011 came up before learned XVII Metropolitan Magistrate, Saidapet dismissed the application on 12.09.2014 citing no instances of domestic violence by the Husband or his relatives and ordered no reliefs as prayed. Aggrieved by the same the wife had preferred an appeal before the learned VII Additional Sessions Judge, Chennai in C.A.No.271 of 2016 whereby the sessions court confirmed and upheld that there is no instance of domestic violence but in the interest of justice for the minor son had ordered the Husband to pay a sum of Rs.5000/- as maintenance from the date of the petition. Both husband and wife were aggrieved by the order and have preferred these Revisions and the same have come before me.

4.Both the Lower Courts have gone into the subject matter in detail and both have concluded that there is no instance of Domestic Violence on the Wife by either the Husband or his relatives. I have looked at the materials appreciated by both the Lower Courts and I find that there is no compulsive reason for me to interfere into the detailed finding of both the Lower

Courts and I am fully satisfied that there is no instance of Domestic Violence exhibited by the Husband or his relatives on the Wife.

5. Irrespective of findings that there is no domestic violence, the learned VII Additional Sessions Judge, Chennai in C.A.No.271 of 2016 has cited sections in the Hindu Adoption and Maintenance act and has ordered the husband and wife to contribute in equally to the maintenance of the minor child and accordingly and the husband was ordered to contribute Rs.5,000/- towards his part of maintenance of his son as the son was in the custody of the wife and this Court also feels that irrespective of the disputes between the spouses, the child should not suffer and needs to get the best from both the Parents. This Court feels that irrespective of the courts not finding instances of Domestic violence, the Husband is legally bound to maintain his son and this court finds that the husband needs to contribute Rs.15,000/- per month towards his contribution to the maintenance of his son to the wife and the same shall be paid from the date of filing of the petition.

6. This Court feels that there is nothing warranting to interfere with the order of the learned VII Additional Sessions Judge, Chennai in C.A.No.271 of 2016, except that this Court would want to modify the maintenance amount to be paid by the Husband.

7. In the result, both the criminal revisions are dismissed with the order in Criminal Appeal No.271 of 2014 being slightly modified and thus it is hereby directed that the Husband give maintenance amount of Rs.15,000/- to his son by name Thajeev as maintenance from the date of filing of the petition and it is hereby confirming all other aspects contained in the dismissal order dated 12.09.2014 in M.C.No.69 of 2011 by the learned Metropolitan Magistrate, Saidapet and upheld by the learned VII Additional Sessions Judge, Chennai in C.A.No.271 of 2016 for protection order, residence order, monetary relief and compensatory order under the Protection of Women from Domestic Violence Act 2005 (43 of 2005). Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vs

To

1.The VII Additional Sessions Judge,
City Civil Court, Chennai.

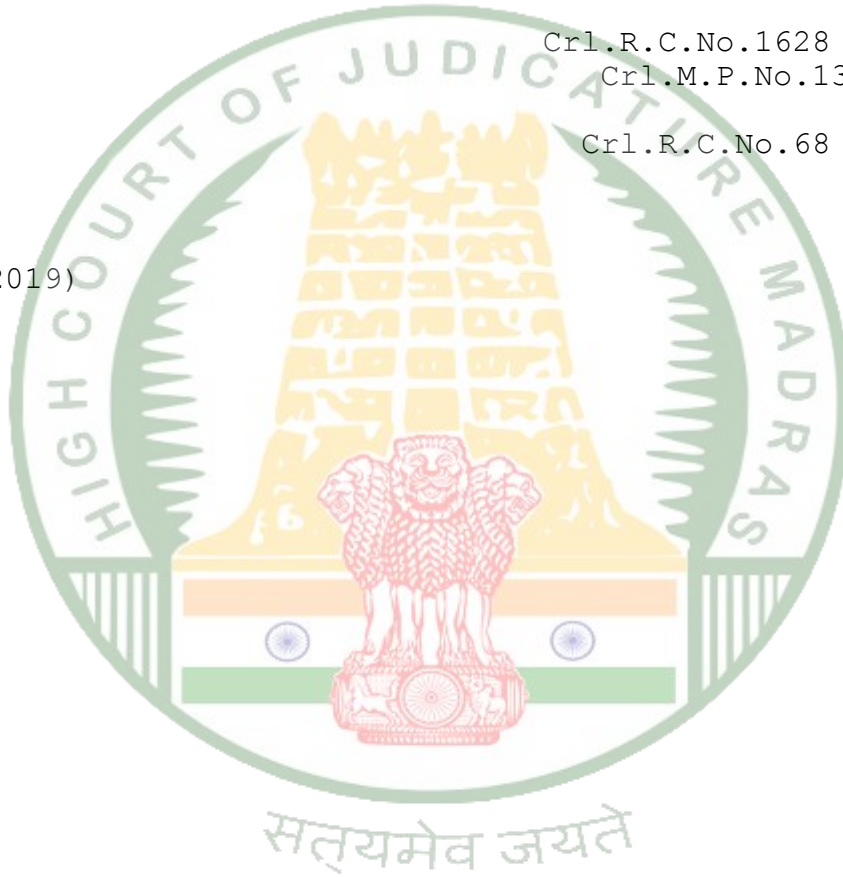
2. The Metropolitan Magistrate XVII
Saidapet, Chennai 13.

+4 Ccs to Mr.R.Vijayaraghavan, Advocate sr 15274 & 15275.

+1 CC to Mr.Thomas T.Jacob, Advocate sr 15436.

Crl.R.C.No.1628 of 2016 and
Crl.M.P.No.13391 of 2016
and
Crl.R.C.No.68 of 2017 and

MP (CO)
SP (22/02/2019)



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