

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.15225 of 2019

P.Hemapiriya

...Petitioner

-Vs-

1. K.Uthayasankar
2. Kabali
3. Mohanasundari
4. Mohanaselvi

...Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the Learned Additional Mahila Judge, Chengalpattu to number the petitioner's application No. D.V.C./3997/2019 C.N.R.No. TNK P030060472019 and proceed the trial according to law.

For Petitioner : Mr.G.Mohanakrishnan

ORDER

This Criminal Original Petition has been filed for a direction to the learned Additional Mahila Judge, Chengalpattu to take the complaint filed by the petitioner under the Domestic Violence Act on file and proceed further in accordance with law.

2. The learned counsel for the petitioner submitted that the petition that was presented by the petitioners before the Court below, was returned by the Court below on the ground that without a Domestic incident report from the Protection Officer, the petition will not be entertained. The learned counsel for the petitioner further submitted that Section 12 of the Protection of Women From Domestic Violence Act 2005, gives a right to an aggrieved person to present an application to the Magistrate seeking for one or more reliefs under the Act. The Magistrate before passing any order on such application can always take into consideration the Domestic incident report from a Protection Officer. Therefore, the learned counsel for the petitioner submitted that the Magistrate can always direct the Protection Officer to conduct an enquiry and submit the Domestic

incident report and thereafter, act in accordance with law. The learned Magistrate need not return back the application for the said purpose.

3. This Court finds force in the submissions made by the learned counsel for the petitioner. The language used under Section 12 of the Act is very clear and it is not necessary that an application will be received by the learned Magistrate only with the Domestic incident report from the Protection Officer and not otherwise. In cases, where an aggrieved person files an application before the Magistrate seeking for one or more reliefs under the Act, the Magistrate himself can seek for a report from the Protection Officer after conducting an enquiry and thereafter, act in accordance with law.

4. In the result, this Criminal Original Petition is disposed of, with a direction to the petitioner to re-present the application and the learned Additional Mahila Judge, Chengalpattu, shall entertain the petition filed by the petitioner and if the Court deems it fit to get a Domestic incident report, the Court itself can direct the Protection Officer to conduct an enquiry and submit such a report and thereafter, the Court below shall proceed further in accordance with law.

msrm

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Mahila Judge,
Chengalpattu.

+1cc to Mr.G.Mohanakrishnan, Advocate, SR.No.48738

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Kak(17/06/2019)

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