

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.07.2019

CORAM
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.18084 of 2019

P.Matheswari

...Petitioner

vs.

S.Rishidharan

...Respondent

PRAYER : Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to direct the learned Judge of the Additional Mahila Court, Egmore to dispose D.V.C. No.446 of 2017 within the time stipulated by this Court.

For Petitioner : Ms.B.Poongkhulali

O R D E R

This petition has been filed seeking for a direction to the Court below to dispose of DVC No.446 of 2017 within a time stipulated by this Court.

2. It is seen from records that initially the petition was filed before the Additional Mahila Court, Trichy, and the same was pending in DVC No.54 of 2016. The petitioner filed a petition before this Court in Crl.O.P.No.7563 of 2017 wherein the petitioner had sought for a transferring the case to the 5th Metropolitan Magistrate Court, Egmore. This Court ordered notice to the respondents and after the completion of the service, this Court after hearing both sides, transferred the domestic violence proceedings from the file of the Additional Mahila Court, Trichy to the file of the 5th Metropolitan Magistrate Court, Egmore, by an order dated 27.07.2017. After the transfer, the case is now renumbered as DVC No.446 of 2017.

3. It is seen from the Court proceedings that after the case records were transferred, the Court below had again ordered notice to the respondents R2 to R4 were set as ex-parte and the notice was awaited for R1, who is the husband. In the meantime, the husband had left India and in spite of best efforts of the petitioner, the notice was not able to be served to R1.

4. The Court below had ordered substitute service by publication in the local newspaper on 04.02.2019. The publication was effected and the substituted service was

recorded on 15.04.2019 by the Court below. There upon the Court below ought to have proceeded further with the case. In the mean time, there was a change of guard and the new incumbent thought it fit to again order for fresh notice to R1 and therefore the case again went back to the original position. Once substituted service has been ordered and it has been effected, there is no requirement to order for a fresh notice.

5. In view of the above, the proceedings were pending without any progress and therefore the present petition has been filed before this Court seeking for a direction for early disposal of the case.

6. Taking into consideration the facts and circumstances of the case, the Court below is directed to complete the proceedings in DVC No.446 of 2017 within a period of three months from the date of receipt of copy of this order. The Court below shall take into consideration the substituted service already effected and recorded on 15.04.2019 as sufficient service and there is no requirement to order any fresh notice to R1. If R1 appears before the Court and conducts the case, the Court shall proceed further with the case by giving opportunity to both sides. If he does not appear and conduct the case, he shall be set ex-parte and proceedings shall continue further.

7. This Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssr/jas

To

1. The Additional Mahila Court,
Egmore, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.Poonkhulali, Advocate, S.R.No.57996

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NRL (CO)

RRS (11/07/2019)