

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.24661 of 2019

Nilofar

...Petitioner

Vs.

1. M.Shaul Hameed

2. Mohamed Haseem

...Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to pass an order or direction, directing the learned Additional Mahila Metropolitan Magistrate Court, Egmore, to dispose off the D.V.C.131 of 2018, pending on its filed within the stipulated time.

For Petitioner : Mr.T.Arul

ORDER

The limited prayer sought for in the present Criminal Original Petition is to dispose of the domestic violence case within a stipulated time.

2. It is seen that the petition is presented on 01.11.2018 and on perusal of the adjudication orders, the service has been pending on several occasions commencing from 03.01.2019.

3. The learned counsel for the petitioner relied upon Section 12(5) of the Protection of Woman from Domestic Violence Act, 2005 and submitted that the Magistrate is required to dispose of the application, within a period of six months, from the date of the first hearing.

4. Section 12 of the Protection of Woman from Domestic Violence Act, 2005, cannot be said to be a mandatory direction to the Magistrate, since the wordings in the provision itself calls upon the Magistrate to endeavour to dispose of the application. Nevertheless, the period prescribed in the provision requires to be adhered to the extent possible and it

shall be the endeavour of all the learned Magistrates to ensure that such an application is disposed of at the earliest, in any event, within a period of 60 days from the date of the first hearing.

5. In the instant case, the notice itself has not been served on the respondents and unless and until the respondents in the domestic violence case enters appearance, it cannot be said that the Magistrate should dispose the same within a period of 60 days, even before the service is effected. As such, the first hearing referred to under Section 12(5) of the Act, would necessarily be construed to be the date on which the matter is listed, after the notice has been served on the respondents.

6. In the light of the above observations and taking into account that the notice is yet to be served on the respondents, it will not be appropriate for this Court to fix up a time limit to dispose of the application of the Domestic Violence Act. Nevertheless, the learned Additional Mahila Metropolitan Magistrate, Egmore, shall endeavour to dispose of the proceedings, as expeditiously as possible.

7. With the above observations, the Criminal Original Petition stands closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

hvk

To

1. The Additional Mahila Metropolitan Magistrate Court,
Egmore.
 2. The Additional Public Prosecutor,
High Court of Madras.
- +1 cc to Mr.T.Arul Advocate sr78887

Cr1.O.P.No.24661 of 2019

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