

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.33729 of 2019

S.Priyanka

...Petitioner

vs.

S.Pranesh

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 04.11.2019 in C.M.P.No.1182 of 2019 and consequently number the petition in C.M.P.No.1182 of 2019 dated 01.11.2019 on the file of the Special Court for Trial of Domestic Violence Act cases, Coimbatore.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the trial court in C.M.P.No.1182 of 2019 dated 04.11.2019.

2. The learned counsel for the petitioner has submitted that the petitioner herein is the wife and the respondent herein is the husband. He further submitted that based on the application filed by the petitioner u/s.12 of the Protection of Women from Domestic Violence Act, the learned Judicial Magistrate Court constituted under the Domestic Violence Act, Coimbatore, has taken the case on file in D.V.A.No.21 of 2019. He further submitted that the relatives of the respondent herein had filed Crl.O.P.No.7179 of 2019 before this Court to quash the said proceedings and in that petition, this Court by an order dated 24.04.2019 has quashed the proceedings against them, but directed the respondent herein to appear before the trial court during the hearing date and thereafter, the respondent herein has filed Crl.O.P.No.16403 of 2019 to modify the aforesaid order. This Court after by the order dated 25.06.2019 had modified the earlier order to the effect that the respondent herein shall be present before the court below during the important dates of hearings.

3. He further submitted that when the matter was posted for taking evidence, the petitioner has filed a petition u/s.28 of the Protection of Women from Domestic Violence Act, directing the respondent to present before the Court. The learned Judicial Magistrate has returned the said petition stating that already this Court has suspended the appearance of the respondent. He further submitted that if respondent is appeared before the trial court, there is a possibility for settlement and hence he requests to set aside the order passed by the learned Judicial Magistrate and direct the respondent to be present in the next hearing before the trial court.

4. This Court by the order dated 25.06.2019 in CrI.O.P.No.16403 of 2019 and CrI.M.P.No.8230 of 2019 has passed the following order in paragraph No.4:

" 4. Taking into consideration the facts and circumstances of the case, the condition imposed by this Court is modified to the effect that the petitioner shall be represented by a Counsel before the Court below. The petitioner shall be present before the Court below during important dates of hearing, as and when required by the Court below and in all the other hearings, the counsel shall be permitted to represent the petitioner. the Court below shall take into consideration the present order and shall permit the petitioner to contest the petition on merits."

5. From the abovesaid order, it is clear that the respondent herein was permitted to represent through counsel before the Court below. Further he shall be present before the Court below during important dates of hearing, as and when required by the Court below and in all other hearings he can be represented by the Counsel. When such an order is passed by this Court, I do not find any infirmity in the order passed by the learned Judicial Magistrate. Hence, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mfa

To

The Special Court for Trial of
Domestic Violence Act cases, Coimbatore.

+lcc to Mr.I.Abrar Md Abdullah, Advocate SR.104384

CrI.O.P No.33729 of 2019

VGII(CO)
CB(22/01/2020)



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