

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.8971 of 2013
and
M.P.Nos.1 & 2 of 2013

1.K.G.Girish Babu

2.K.Remadevi

3.K.Gengadharan ... Petitioners/ Respondents 1 to 3

Vs.

1.The Protection Officer,
Domestic Violence Act,
District Social Welfare Office,
District Collector's Office Complex,
Singaravelar Maaligai,
8th Floor, Rajaji Salai,
Chennai -1. ... 1st Respondent

2.K.Nisha ... 2nd respondent/ defacto
complainant

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to
call for the records in C.C.No.6364 of 2012 on the file of the
V Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : M/s.K.S.Kumar

For Respondent : Mr.C.Iyyapparaj, AGP

ORDER

This criminal original petition has been filed seeking to
call for the records in C.C.No.6364 of 2012 on the file of the
V Metropolitan Magistrate, Egmore, Chennai and to quash the same.

2.The petitioners are husband, mother-in-law and father-in-
law of the defacto complainant, who has lodged the complaint
under the Domestic Violence Act. Challenging the said case
instituted by the defacto complainant, the present petition has
been filed.

3. The case of the petitioners is that the marriage between the first petitioner and the defacto complainant was solemnized on 23.01.2005. After marriage, both the husband and wife started their marital life in Dubai. After the marriage, the couple left for Dubai, where the first petitioner was employed and were continuing their matrimonial life since February, 2005. Though the defacto complainant secured an employment in Dubai, but later, lost her job. During October, 2008, the defacto complainant came to India to attend her brother's marriage, which was held in January, 2009. The 1st petitioner also came to Chennai during January, 2009 for attending the said marriage. The 1st petitioner and the defacto complainant happily attended the marriage and left for Dubai, where they continued their happy matrimonial life. A cordial relationship was in existence between the family of the 1st petitioner and the defacto complainant. However, matrimonial disputes arose between the 1st petitioner and defacto complainant and on 22.7.2012 the defacto complainant requested the first petitioner to give back all her jewels which was in the TNSC Bank Locker. Accordingly, acceding to her request all the jewels were given to the defacto complainant on the same day and an acknowledgement with regard to receipt was also given by the defacto complainant. However, out of the blue, the defacto complainant lodged a complaint on 17.8.2012, in W-7, All Women Police Station, Anna Nagar. Immediately after the complaint, the petitioners went to Anna Nagar police station, where the 1st petitioner was arrested and remanded to judicial custody in Crime No.12 of 2012, and later released on bail by the learned 5th Metropolitan Magistrate. Anticipatory bail was granted to petitioners 2 and 3 by this Court, since they had not committed any serious offences.

4. The defacto complainant filed a petition for divorce, before the III Additional Family Court in O.P.No.2945 of 2012. Apart from the above two cases, the defacto complainant also filed the present domestic violence complaint and another complaint was also filed claiming maintenance in MC. No.414 of 2012 on the very same day before the same Family Court. Apart from that the defacto complainant also filed DVC case in C.C. No.6364 of 2012 before the V Metropolitan Magistrate Court, Egmore, challenging which the present petition has been filed.

5. The learned counsel for the petitioners submits that several cases were instituted by the defacto complainant and subsequently, the defacto complainant obtained divorce from the 1st petitioner and remarried one Amit Kumar and got settled in New Zealand. Though the 1st petitioner has taken earnest efforts to serve summons, however, there was no response from the defacto complainant, pursuant to which paper publication was ordered by this Court. It is the submission of the learned

counsel for the petitioner that only to harass the petitioners, the defacto complainant has filed the above case as also the very many cases and the present act of the defacto complainant not turning up for hearing clearly shows that her act is only to cause mental trauma to the petitioners and, therefore, seeks for quashment of the present complaint.

6. Though notice was ordered to the respondent, however, the same could not be served on the respondent for the reason that the respondent had married and settled with her husband in Newzealand. In such circumstances, this Court ordered paper publication vide order dated 28.1.2020. Thereafter, the matter was listed on 7.2.20 for filing proof of service and the learned counsel for the respondent filed proof with regard to paper publication. Therefore, this Court, finding that the respondent is not interested to appear before this Court and also taking into consideration the fact that the matter pertains to the year 2013, decided to take up the matter and dispose the same on merits.

7. A perusal of the entire records, including the private complaint, reveals that it is not only the present complaint, which has been initiated at the behest of the defacto complainant, but a series of cases, including the case for divorce has been instituted in which the 1st petitioner has acceded to the request of the defacto complainant and they have been amicably granted divorce. Subsequent to the divorce, it is borne out by record that the defacto complainant has married for the second time and has settled abroad and her non-appearance to defend the present case clearly reveals her non-inclination to proceed with the issue any further. In the above backdrop, this Court is of the considered view that once the proceedings for divorce has culminated into separation of the 1st petitioner and the defacto complainant and further the defacto complainant having married and settled abroad, there is no justifiable reason to allow the proceedings under the Domestic Violence Act to continue any further against the petitioners.

8. In the result, the petition is allowed and the complaint in C.C.No.6364 of 2012 on the file of the V Metropolitan Magistrate, Egmore, Chennai is hereby quashed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The V Metropolitan Magistrate,
Egmore, Chennai.

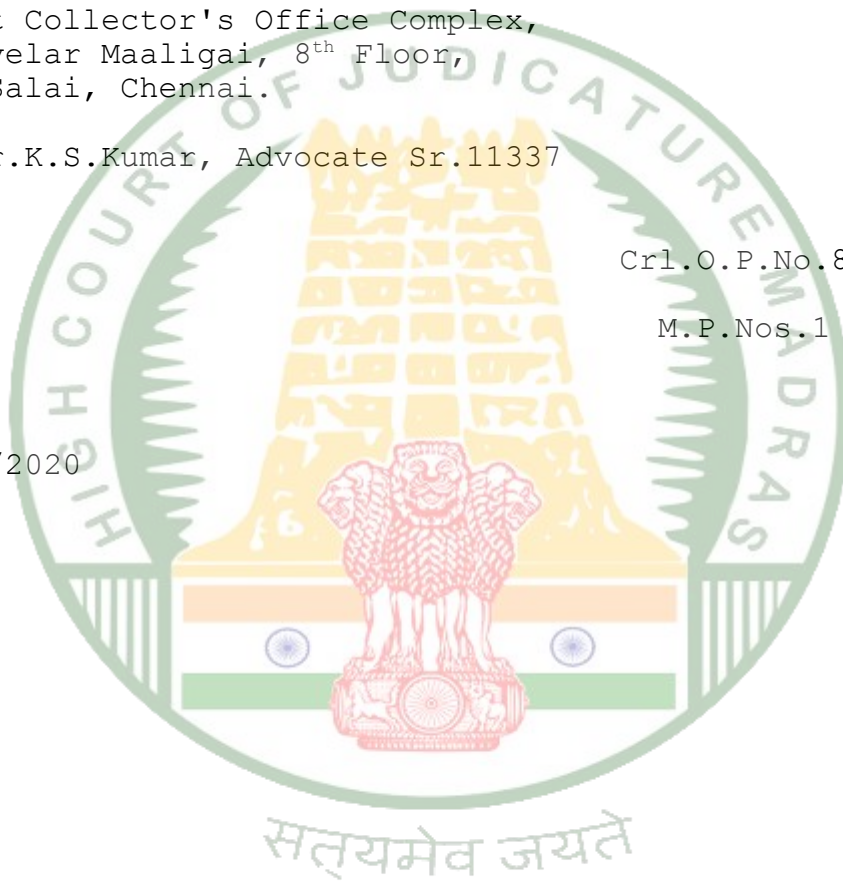
2.The Public Prosecutor,
High Court, Madras.

3.The Protection Officer,
Domestic Violence Act,
District Social Welfare Office,
District Collector's Office Complex,
Singaravelar Maaligai, 8th Floor,
Rajaji Salai, Chennai.

+lcc to Mr.K.S.Kumar, Advocate Sr.11337

Crl.O.P.No.8971 of 2013
and
M.P.Nos.1 & 2 of 2013

BS(CO)
srg 09/10/2020



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