

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl OP.No.11772 of 2019

and

Crl. M.P. Nos.6079 and 6081 of 2019

K. Devendiran

...Petitioner

Vs.

Rathika

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.PC praying to call for the records and set aside the order passed by the learned Judicial Magistrate No.1, Myladuthurai, Nagapattinam District made in Crl. M.P. No.3858/2018 in M.C. No.2/2015 dated 05.04.2018.

For Petitioners : Mr. T.R. Ravi

For Respondent : No appearance.

ORDER

This Criminal Original Petition is directed against the order dated 05.04.2018 passed in Crl. M.P. No.3858/2018 in M.C.No.2/2015 on the file of the Judicial Magistrate Court No.1, Myladuthurai, Nagapattinam District.

2. From the materials available on record, it is found that the respondent has levied the Domestic Violence Case against the petitioner in M.C.No.2 of 2015 on the file of the Judicial Magistrate Court No.1, Myladuthurai and the same was ordered on 07.09.2018 and the petitioner had been directed to pay the sums to the respondent and her children and also the compensation amount in a sum of Rs.15.00 lakhs. It is found that the petitioner has not complied with the directions passed by the

Page numbers

Magistrate Court in the abovesaid Domestic Violence Case. Therefore, the respondent is found to have laid the necessary petition before the concerned court in Crl. M.P. No. 3858 of 2018 for enforcing the abovesaid order. The impugned order has been passed by the Magistrate Court. Impugning the same, the present Criminal Original Petition has been laid by the petitioner.

3. The only point that has been canvassed in this criminal original petition is that the petitioner has preferred an appeal against the order passed in the Domestic Violence Case and the same is pending before the Sessions Court and therefore, according to the petitioner's counsel, the magistrate is not entitled to proceed with the Crl. M.P. No.3858 of 2018 preferred by the respondent for enforcing the order passed in the Domestic Violence Case.

4. The abovesaid contention raised by the petitioner's counsel is bereft of materials. Admittedly, the petitioner has not obtained any stay order from the Sessions Court staying further proceedings of the order passed in the Domestic Violence Case. In such view of the matter, the respondent is entitled to enforce the order passed in her favour by the Magistrate Court and accordingly she has preferred the petition in Crl. M.P. No.3858 of 2018. Furthermore, considering the huge amount which is liable to be paid by the petitioner to the respondent as directed by the Magistrate court, despite the same, the petitioner has not endeavoured to pay the amount substantially and only been paying the amount in piece meal and in such view of the matter, the magistrate has directed the petitioner to pay a substantial amount on the next hearing date in the abovesaid M.P. Considering the huge amount which is liable to be paid by the petitioner to the respondent, the Magistrate is justified in directing the petitioner to pay a substantial amount on the next hearing date. I do not find any infirmity in the impugned order as such.

5. Insofar as the contention raised by the petitioner's counsel that he has preferred an appeal challenging the order passed in the domestic violence case, as above noted, when no stay has been granted by the Sessions Court, resultantly, the respondent is entitled to enforce the order passed by the Magistrate Court and therefore, the contention raised by the petitioner's counsel that the magistrate court has acted beyond the jurisdiction particularly when the appeal is pending before the Sessions Court, as such, cannot be accepted.

Page numbers

6. In the light of the abovesaid reasons, I do not find any infirmity in the impugned order. Resultantly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CCC)

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Sub Assistant Registrar

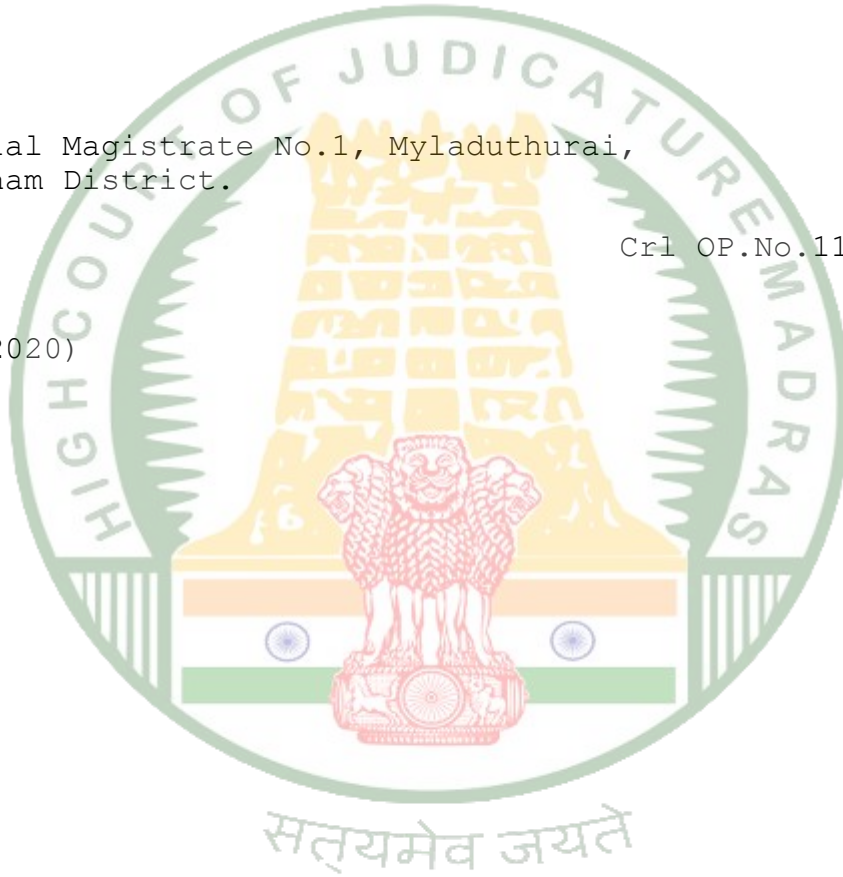
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To

The Judicial Magistrate No.1, Myladuthurai,
Nagapattinam District.

Crl OP.No.11772 of 2019

SVI (CO)
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Page numbers