

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.Nos.25184 & 25185 of 2019
and Crl.M.P.Nos.13440 & 13442 of 2019

S.Ijas Praveen
D/o.Syed Azeez

... Petitioner/Petitioner in
both Crl.O.Ps.

Vs

1. A.Abdul Huq
2. Fathima
3. Hafija

... Respondents in Crl.O.P.
No.25184 of 2019

A.Abdul Huq

... Respondent/Respondent in
Crl.O.P. No.25185 of 2019

PRAYER in Crl.O.P.No.25184 of 2019: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to withdraw the D.V.C.No.2 of 2016 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumbudur and transfer the same to Sub Court, Alandur.

PRAYER in Crl.O.P.No.25185 of 2019: Criminal Original Petition filed under Section 407 of Cr.P.C. praying to withdraw the M.C.No.5 of 2016 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumbudur and transfer the same to Sub Court, Alandur.

For Petitioner in
both Crl.O.Ps : Ms.P.Stella Mary
For Respondents
in both Crl.O.Ps : No appearance

COMMON ORDER

The Criminal Original Petition in Crl.O.P.No.25184 of 2019 has been filed praying to withdraw the case in D.V.C.No.2 of 2016 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumbudur and to transfer the same to Sub Court, Alandur.

2. The Criminal Original Petition in Crl.O.P.No.25185 of 2019 has been filed praying to withdraw the case in M.C.No.5 of 2016 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumbudur and to transfer the same to Sub

Court, Alandur.

3. Since both the petitions have been filed by the same person in respect to her matrimonial dispute pending with the respondents, both the petitions have been taken jointly for disposal.

4. Heard Ms.P.Stella Mary, learned counsel appearing for the petitioner in both cases. No one is appeared on behalf of the respondents in both cases.

5. Before the District Munsif-cum-Judicial Magistrate, Sriperumbudur, the petitioner herein filed a case in D.V.C.No.2 of 2016 as against the respondents under Section 12, 17, 18, 19, 20, 22 of Domestic Violence Act. Now the said case as against the respondents is pending with the above said Court for commencement of trial.

6. Similarly, the petitioner herein filed one another case under Section 125 of Cr.P.C., against her husband viz., Abdul Huq, who is the first respondent in the domestic violence case in M.C.No.5 of 2016, for which she is claiming maintenance of Rs.15,000/- per month.

7. Now came to the prayer sought out by the petitioner in the present cases, she wanted to transfer both the cases from the District Munsif-cum-Judicial Magistrate, Sriperumbudur to the Subordinate Court, Alandur. In fact, the learned Subordinate Judge, Alandur is not having any jurisdiction to try the cases which filed under the Domestic Violence Act as well as under Section 125 of Cr.P.C. Accordingly, the prayers sought out by the petitioner itself is sufficient for dismissing the petitions. In fact, only the Courts of Judicial Magistrate constituted under Section 11 of Cr.P.C., alone is having jurisdiction to try those offences.

8. Secondly, on going through the affidavit filed by the petitioner, she stated that during the time, when she was attended the Court at Sriperumbudur, the respondents made threatening and therefore, the Judicial Magistrate Court, Sriperumbudur is not a safe place for conducting trial. In this regard, the learned counsel appearing for the petitioner submitted that with regard to the threat made by the respondents, the petitioner lodged complaint before the police on 24.06.2015, for which the Station house officer, Mangadu Police Station, issued C.S.R.No.946 of 2015.

9. Further in order to substantiate the said contention, she produced a copy of the CSR receipt issued by the Mangadu Police Station, which proves that the said contention raised by the petitioner is found correct. However, according to the said

document, the respondents threatened the petitioner in the year 2015. On the other hand, the affidavit filed by the petitioner, which pertains to these petitions is in the year 2019. Therefore, the complaints lodged before the police against the respondents are no way related to the petition mentioned cases. More over to prove the threat made by the respondents, except the said C.S.R. receipt nothing has been produced by the petitioner and also for the past three years till filing of these petitions nothing had happened.

10. Therefore, in view of the above discussions, the petitions filed by the petitioner deserve to be dismissed. Alternatively, I am of the opinion that, since the petition mentioned cases are pending from the year 2016, it would appropriate to direct the District Munsif-cum-Judicial Magistrate, Sriperumbudur to dispose the cases within time as stipulated by this Court.

11. Accordingly, the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur, is directed to dispose of the cases in D.V.C.No.2 of 2016 and M.C.No.5 of 2016 on his file, within the period of six months from the date of receipt of a copy of this order.

12. With the above directions, both the Criminal Original Petitions are disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1.The District Munsif-cum-Judicial Magistrate Court,
Sriperumbudur.

2.The Subordinate Court, Alandur.

+2cc to Mr.P.Stellamary, Advocate, S.R.No. 38751,38752

CrI.O.P.Nos.25184 & 25185 of 2019
and CrI.M.P.Nos.13440 & 13442 of 2019

KJ(CO)
GN(18/01/2021)