

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL. O.P. No. 28924 of 2018
and
CRL.M.P.No.16897 of 2018

Lakshmi NarayananPetitioner/1st Respondent

Versus

KamatchiRespondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in D.V.No.21 of 2018 on the file of the learned Judicial Magistrate, Ambattur and quash the same.

For Petitioner : Mr. M. Babu Muthu Meeran
For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.C. No.21 of 2018, on the file of the learned Judicial Magistrate, Ambattur. There are totally three respondents in the domestic violence case, in which the petitioner is arrayed as first respondent.

2.The learned counsel for the petitioner submitted that the complaint filed under the Domestic Violence Act, 2005 is nothing but an abuse of process of law, per se vexatious, frivolous and not maintainable as against the petitioner. The marriage between the petitioner and the respondent was solemnised on 07.09.2007, thereafter, there was a strained relationship between them and the respondent left the matrimonial home. Therefore, the petitioner filed a petition for restitution of conjugal rights in F.C.O.P. No. 3929 of 2011 and a petition for divorce in F.C.O.P.No.3374 of 2009. The petitioner's divorce petition was dismissed on 09.03.2013 and the restitution of conjugal rights petition was decreed. Aggrieved by the same, the petitioner preferred an appeal in CMA. No. 1330 of 2013 before this Court

and the same was also dismissed. Again, the petitioner filed a Special Leave Petition (Civil) before the Hon'ble Supreme Court of India in Diary No.23510 of 2018 and the same is pending.

3.While so, the respondent filed a maintenance case in M.C. No. 261 of 2013 under Section 125 of Cr.P.C., in which, she prayed for direction to the petitioner to pay maintenance of Rs.1,50,000/- to her and Rs.50,000/- for her minor son. By order dated 19.01.2018, the V-Additional Family Court, Chennai awarded a sum of Rs.30,000/- as maintenance to the respondent and a sum of Rs.15,000/- to the minor son. The order of maintenance was also challenged by the petitioner before this Court in CrI.RC. No. 567 of 2018 and the same is pending. So far the petitioner paid a sum of Rs.27,64,250/- to the respondent as maintenance and also continuously paying the monthly maintenance for a period of 11 years from the date on which the relationship between them got strained. While so, the domestic violence complaint has been filed as against the petitioner and two others, claiming maintenance.

4.The only point for consideration is limitation. In this regard, it is relevant to rely upon the judgment in the case of Inderjit Singh Grewal Vs. State of Punjab & Anr., reported in 2012 CrI.L.J 309. Sections 28 and 32 of Protection of Women from Domestic Violence Act, 2005 r/w Rule 15(6) of the Protection of Women from Domestic Violence Rules 2006, makes the provisions of Criminal Procedure Code applicable. Therefore, the respondent ought to have filed the complaint within a period of one year from the date of the incident.

5.In the case on hand, the respondent left the matrimonial home in the year 2008 itself, thereafter, there are so many proceedings pending against the petitioner and the respondent herein, in respect to their family disputes. The petitioner was directed to pay a sum of Rs.30,000/- to the respondent herein and a sum of Rs.15,000/- to the minor son as maintenance in MC.No.261 of 2013 and it is under challenge before this Court in CrI.R.C.No.567 of 2018 and the petitioner herein has been continuously paying the maintenance to the respondent.

6.Therefore, on the ground of limitation, the entire complaint is nothing but a clear abuse of process of Court and it cannot be sustained as against the petitioner.

7.Accordingly, this Criminal Original Petition stands allowed and the proceedings in D.V.No.21 of 2018 on the file

of the learned Judicial Magistrate, Ambattur are quashed.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

klt

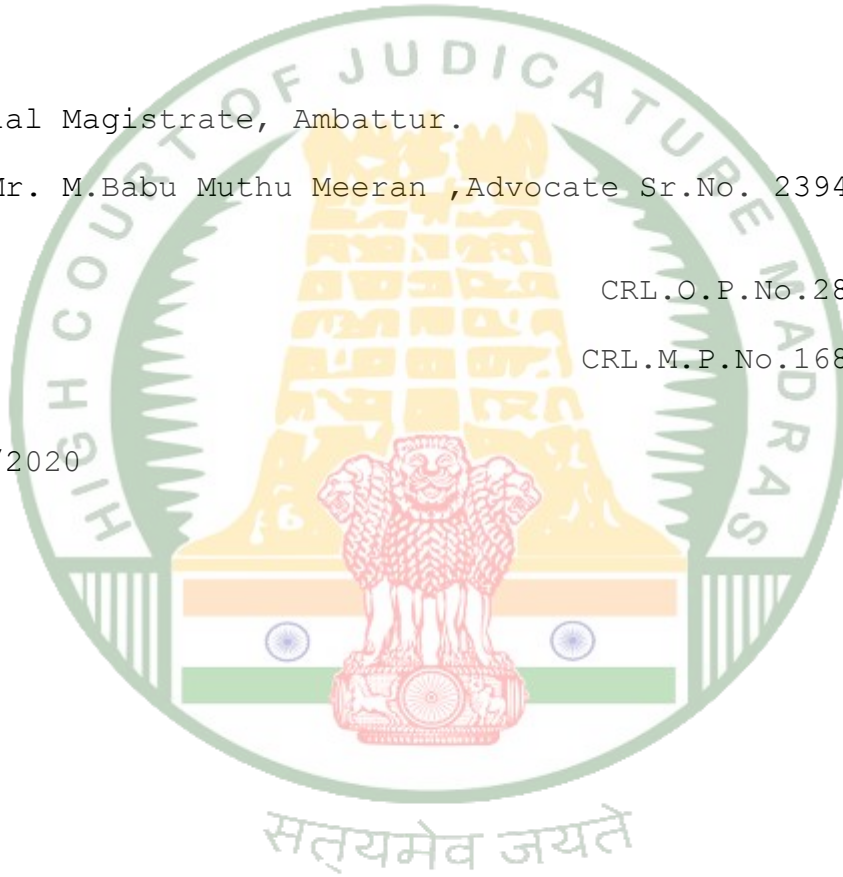
To

The Judicial Magistrate, Ambattur.

+1 cc to Mr. M.Babu Muthu Meeran ,Advocate Sr.No. 23940

CRL.O.P.No.28924 of 2018
and
CRL.M.P.No.16897 of 2018

ASI (CO)
KKV/22/05/2020



WEB COPY