

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.7116 OF 2021

Yasodha

... Petitioner

Versus

D.Thangaraj

... Respondent

Prayer:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.4307 of 2021 C.C.No.766/2018 in D.V.C.No.38/2015 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai and to quash the same.

For Petitioner : Dr.G.Krishnamoorthy
for Mr.J.B.Solomon Peter Kamal Doss

ORDER

The petitioner filed a complaint under Domestic Violence Act against the respondent/her husband, in DVC.No.38 of 2015, which was pending before the XV Metropolitan Magistrate, George Town, Chennai. In the meanwhile, the Chief Metropolitan Magistrate, Egmore, Chennai in ROC.No.1697/2016/D dated 05.08.2016 directed the transfer of all the cases, where the victim is a women, pending before all the Metropolitan Magistrate Courts in Chennai to the newly constituted Additional Mahila Court in the cadre of Additional Mahila Judge level, Egmore at Allikulam, which commenced from 05.08.2016. Thereafter, by subsequent order dated 29.11.2016, another proceedings was issued by the Chief Metropolitan Magistrate directing Metropolitan Magistrates under George Town and Saidapet jurisdiction to take up the cases where the victim is a woman, as per their respective territorial jurisdiction restoring status quo as on 04.08.2016. Hence, the order dated 05.08.2016 is not applicable to the present case, which as it was pending before the George Town, Court.

2. In the meanwhile, in the Domestic Violence Case, final order came to be passed on 16.12.2017, wherein the respondent was directed to provide residential accommodation to the petitioner and not to harass both physically and mentally further ordered to pay a sum of Rs.7,000/- as maintenance to the petitioner and the child. Since the respondent failed to comply the protection order proceedings were initiated under Section 31 of the Act. The case was converted to C.C.No.766 of 2017 after long persuasion respondent was arrested on 18.01.2021 later, released on bail. Now taking advantage of the two directions of the Chief Metropolitan Magistrate dated 05.08.2016 and 29.11.2016, the respondent filed a transfer petition under Section 410 Cr.P.C., on 12.02.2021, which is pending before the Chief Metropolitan Magistrate in CrI.M.P.No.4307 of 2021.

3. The respondent filed a petition under Section 410 of Cr.P.C., in CrI.M.P.No.4307 of 2021 seeking transfer of CC.No.766 of 2017 in DVC.No.38 of 2015 from the XV Metropolitan Magistrate to Additional Mahila Court, Egmore, Chennai on the ground that the petitioner/wife had obtained order against him, without his knowledge and his presence which has caused very serious mental agony, stress and strain to him.

4. On a perusal of the materials, it is seen that the petition filed by the petitioner u/s 410 of Cr.P.C., in CrI.M.P.No.4307 of 2021 is pending before the Chief Metropolitan Magistrate, Egmore. Due to which proceedings in C.C.No.766 of 2018 could not be progressed, the petitioner though obtained protection order in her favour on 16.12.2017. She is unable to get benefit of the same. Admittedly the respondent is yet to file an appeal as per Section 29 of the Act. The respondent is aware and seerved with the copy of the protection order on 18.01.2021. In the transfer petition no tangible grounds has been raised. Be that as it may. In view of the above factual position this Court directs the Chief Metropolitan Magistrate to dispose the transfer petition in CrI.M.P.No.4307 of 2021 at the earliest without further delay. Keeping the transfer petition pending would defeat the purpose of the Act.

5. With the above direction, this Petition is disposed of.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dna

To

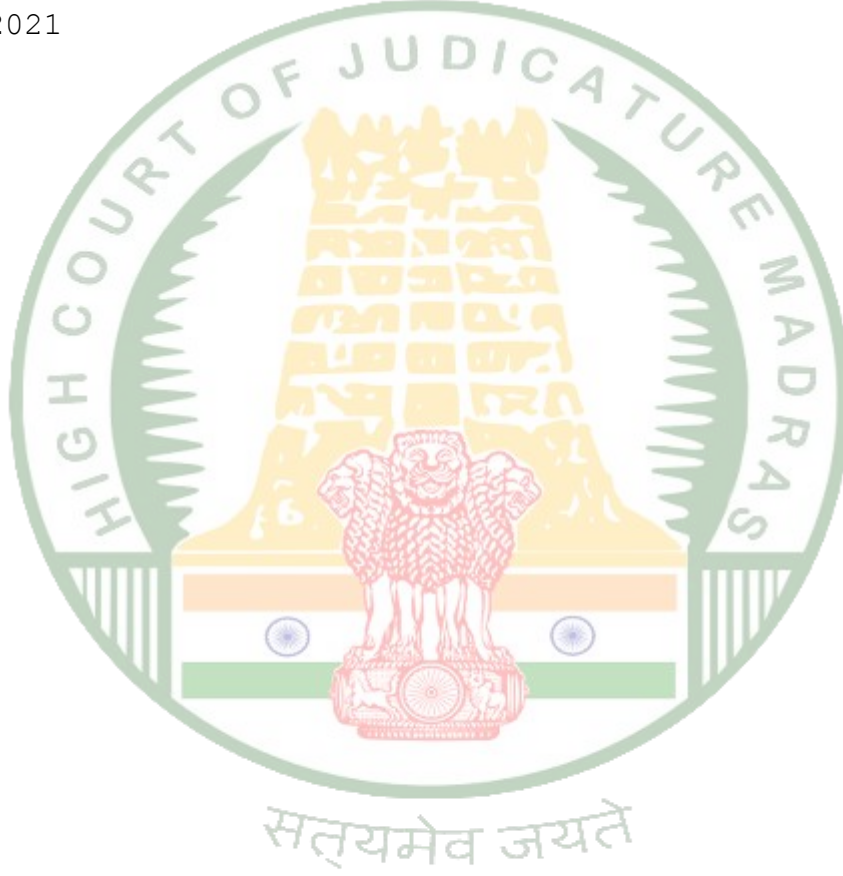
1. The Chief Metropolitan Magistrate, Egmore,
Chennai.

2. The XV Metropolitan Magistrate,
George Town, Chennai.

+1cc to Mr.J.B.Solomon Peter Kamal Doss, Advocate, S.R.No.23629

Crl.O.P.No.7116 of 2021

SRII (CO)
CS/29/06/2021



WEB COPY