



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGOVAN**

Crl.O.P. (MD)No.11924 of 2021

WEB COPY

C.G.Vignesh

... Petitioner

Vs.

M.Anitha

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned Judicial Magistrate, Aruppukkottai to conclude the trial in D.V.C.No.14 of 2018, on the file of the learned Judicial Magistrate, Aruppukkottai and dispose the same in accordance with law within the time frame that may be stipulated by this Court.

For Petitioner : Mr.V.Sasikumar

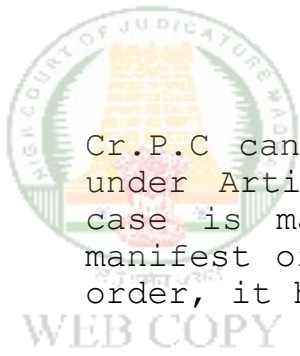
O R D E R

This petition has been filed to direct the learned Judicial Magistrate, Aruppukkottai to conclude the trial in D.V.C.No.14 of 2018, on the file of the learned Judicial Magistrate, Aruppukkottai and dispose the same in accordance with law within the time frame that may be stipulated by this Court.

2.The learned counsel for the petitioner would submit that the petitioner is the respondent in D.V.C.No.14 of 2018, which was filed by the respondent herein before the concerned Court seeking relief under Sections 18, 19, 20 and 22 of Protection of Women from Domestic Violence Act,2005. Interim maintenance was also ordered in Cr.MP.No.6467 of 2018. The petitioner is also complying with the condition till now, whereas the respondent is not co-operating to complete the proceedings. Hence, this petition.

3.It is brought to the notice of this Court the issue in this petition has already been resolved in the judgment of co-ordinate bench of this Court in a batch of Criminal Original petitions dated 18.01.2021, Crl.OP.Nos.28458 of 2019 etc., batch.

4. On perusal of the aforesaid order, it came to the light that after a detailed consideration of the entire law on this point the Court has held that the petition filed by the aggrieved person under Section 12 of the Domestic Violence Act, 2005, is only a civil proceedings and not a criminal proceedings and the aggrieved person is entitled to pursue his remedy as provided under the Act and since it has been taken as a civil proceedings, even though, filed before the Judicial Magistrate of the first Class, power under Section 482



Cr.P.C cannot be invoked to quash the same. If at all only power under Article 227 can be invoked. That too when an extraordinary case is made out, involving jurisdictional error and causing of manifest or substantial injustice. In the concluding portion of the order, it has been observed in paragraphs 53 and 54 are as follows:-

"53.In the result, these petitions under Section 482 Cr.P.C., are not maintainable, and will accordingly stand dismissed. The petitioners will be at liberty to approach the Magistrate, and work out their remedies in accordance with the directions laid down, supra. The Magistrates shall endeavour to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

54.The Registry is directed to circulate a copy of this order to the Principal District and Sessions Judges in the State, who in turn, will do the needful to bring the directions laid down in this order to the notice of the Judicial Magistrates, in their respective Sessions Divisions, for proper disposal of the applications filed under Section 12 of the D.V.Act."

5. The above order is squarely applicable to the present factual circumstances of the case. In view of the above, this petition will not lie and the parties shall work out their remedies as provided under the Act as observed and directed in the above said judgment.

6.With the above observation, this petition stands allowed and the learned Judicial Magistrate, Aruppukottai is directed to comply with the direction passed in the above said order and dispose of the case in D.V.C.No.14 of 2018 within three months from the date of receipt of a copy of this order. Compliance report should be submitted to the Registry of this Court.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Judicial Magistrate, Aruppukkottai

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer, Criminal .Section
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-27250[F] dated 25/08/2021)

Crl.O.P.(MD)No.11924 of 2021
23.08.2021

DJ(CO)
KB(31.08.2021) 3P 5C