



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2021

CORAM :

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THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.16715 of 2021

1.Rahini Karthiga
2.S.Harshinika
(Minor represented through her
mother/natural guardian)

... Petitioners

Vs.

1.Saravanan
2.Kasthuri
3.Sathiyabama
4.Ponselvi
5.Sathiyaseelan

...Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial Magistrate No.I, Thoothukudi, to expedite the trial in D.V.No.21 of 2018 on its file and complete same within stipulated time as fixed by this Court.

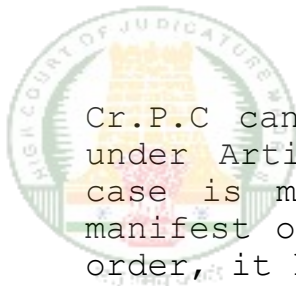
For Petitioner : Mr.K.Veilmuthu

ORDER

This petition has been filed to direct the learned Magistrate No.I, Thoothukudi, to expedite the trial in D.V.No.21 of 2018 on its file and complete same within stipulated time as fixed by this Court.

2.When the matter is taken up for hearing, 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.

3. 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:-

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"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."

4. In view of the above, this petition will not lie and it is the duty of the trial Court to comply the above said order to complete the process within three months.

5. With the above observation, this petition stands dismissed and the learned Judicial Magistrate No. I, Thoothukudi is directed to comply with the direction passed in the above said order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// 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.



To

1. The Judicial Magistrate No.I, Thoothukudi

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

+1 CC to M/s.K.VEILMUTHU, Advocate (SR-33229[F] dated 29/10/2021)

CrI.O.P. (MD) No.16715 of 2021

29.10.2021

TR/JGB(15.11.2021) 3P 4C