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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD)No.370 of 2020

and

Crl.M.P(MD) .No.117 of 2020

(Through video Conference)

G.Vidhya

.. Petitioners/Petitioner

Vs.

1.R.Nishanth

2.Ramachandran

3.R.Usharani

.. Respondents/Respondents 1 to 3

**PRAYER:** Criminal Original Petition filed under Section 407 of the Criminal Procedure Code, to withdraw the case in D.V.No.121/2016 on the file of the Additional Mahila Court, Madurai and transfer the same to Judicial Magistrate No.II, Hosur.

For Petitioner : Mrs.G.Vidhya  
Party-in-person

For Respondents : Mr.B.Babu  
for Mr.N.S.Karthikeyan

**O R D E R**

This matter is listed today as per the order of the Hon'ble Administrative Judge.

2. The brief facts of the case is Mrs.Vidhya, W/o.R.Nishanth, had initiated proceedings against her husband and in-laws in D.V.O.P.No.121 of 2016 on the file of the Judicial Magistrate, Additional Mahila Court, Madurai seeking protection. The in-laws of Mrs.Vidhya, namely, Ramachandran and Usharani, who were arrayed as R2 and R3 in the domestic violence petition, had filed quash petition under Section 482 of Cr.P.C. before this Court on the ground that the relief sought by the petitioner Vidhya is promptly



against her husband and as far as harassment and demand of dowry, she has already filed a complaint at Bangalore police and the same is under investigation. Her prayer for shared household in respect of the property held by these petitioners is not at all maintainable and hence, petition against them should be quashed.

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3.Mrs.Vidhya has engaged a counsel by name, Mr.P.Subbiah to defend the quash petition.

4.When the matter was heard on 17.10.2019, this Court has passed the following order:

*"This Criminal Original Petition has been filed seeking to quash the proceedings in D.V.O.P.No.121 of 2016, on the file of the learned Judicial Magistrate, (Additional Mahila Court), Madurai, insofar as the petitioners herein are concerned.*

*2. The first Petitioner is the father-in-law and the second petitioner is the mother-in-law of the respondent.*

*3. It is seen from the records that the petitioners 1 and 2 are living separately and the respondent is living separately and therefore, no domestic violence can be attributed as against the petitioners 1 and 2. The respondent has not made any specific allegations against the petitioners 1 and 2, except for certain general allegations and certain specific averments have been made by the respondent only against her husband. Even in the absence of a domestic relationship with the respondent, the petitioners 1 and 2 have been roped in a Domestic Violence Petition.*

*4.Heard the learned counsel for the Petitioners as well as the learned counsel for the respondent.*

*5. In the considered view of this Court, the petitioners 1 and 2 are concerned, the entire proceedings is an abuse of process of Court and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.*

*6. In the result, the proceedings in D.V.O.P.No.121 of 2016, on the file of the learned Judicial Magistrate, (Additional Mahila Court), Madurai, is quashed insofar as the petitioners are concerned. It is left open to the respondent herein to proceed further to prosecute the Domestic Violence Petition as against her husband.*

*7. This Criminal Original Petition is allowed and there shall be a direction to the learned Judicial Magistrate, (Additional Mahila Court),*



Madurai, to dispose of the proceedings in D.V.O.P.No.121 of 2016, as against the husband, within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed."

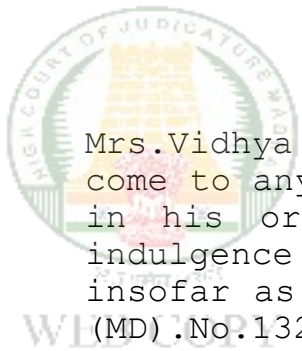
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5. Thereafter, on 29.12.2019, Mrs.Vidhya has filed Crl.O.P.(MD) No.370 of 2020 seeking transfer of D.V.O.P.121 of 2016 from the Additional Mahila Court, Madurai, to the Judicial Magistrate No.II, Hosur on the ground that on 12.02.2019 when she came to the Court to attend the case, the counsel for the respondents threatened her with dire consequence and assaulted her, therefore, fearing threat to life, she has prayed for transfer of her DVOP from Madurai to Hosur.

6. When this matter was heard earlier, my predecessor vide order, dated 31.08.2021, after hearing Mrs.Vidhya through video conference, has recorded that Mrs.Vidhya has represented that her counsel Mr.P.Subbiah did not appear before the Court on 17.10.2019 when the quash petition filed by the respondents 2 and 3 was allowed and therefore directed Mrs.Vidhya to inform her counsel Mr.P.Subbiah to file an affidavit to the effect that he did not represent her before the Court on 17.10.2019.

7. Mrs.Vidhya, who appeared through video conference today, states that Mr.P.Subbiah has already filed his affidavit in the section and USR number also assigned to his affidavit. Though the said affidavit was not available on file, this Court takes the word of Mrs.Vidhya and heard her case regarding the quash petition, which was allowed on 17.10.2019. The prime contention of Mrs.Vidhya is that while the third respondent herein herself has filed a domestic violence petition against her, the order of this Court dated 17.10.2019 stating that the respondents 1 and 2/the petitioners in Crl.O.P(MD)No.13292 of 2017 are living separately and therefore, no domestic violence can be attributed as against the petitioners 1 and 2 is factually incorrect and therefore, the order passed by this Court on 17.10.2019 in the absence of her counsel has to be recalled. This Court, on going through the complaint, which is the basis for taking D.V.O.P.121 of 2016 finds that Mrs.Vidhya had affair with Mr.Nishanth, son of the petitioners in Crl.O.P(MD) No.13292 of 2017 even before the marriage and thereafter, they got married on 07.12.2015 for substantial part of their life, though it was very short period, they were living at Bangalore and both were employed at Bangalore and thereafter due to misunderstanding, several complaints against each other have been lodged and one such complaint is the domestic violence petition, which is now the subject matter under consideration by this Court.

8. Reading of the complaint by Mrs.Vidhya, the affidavit filed by the in-laws of Mrs.Vidhya and the counter affidavit filed by



Mrs.Vidhya in Crl.O.P.(MD).No.13292 of 2017, this Court could not come to any other conclusion except what my predecessor has observed in his order, dated 17.10.2019. Therefore, this Court finds no indulgence can be shown on the representation made by Mrs.Vidhya insofar as the order passed by this Court on 17.10.2019 in Crl.O.P.(MD).No.13292 of 2017.

9. As far as the transfer petition initiated by Mrs.Vidhya is concerned, this Crl.O.P.(MD).No.370 of 2020 was filed after the disposal of Crl.O.P.(MD).No.13292 of 2017, this Court vide order, dated 10.01.2020 has stayed all further proceedings without the knowledge of the earlier order passed by this Court to dispose D.V.O.P.No.121 of 2016 within a period of three months from the date of receipt of a copy of the order dated 17.10.2019. Hence, the learned Judicial Magistrate, Additional Mahila Court, Madurai has addressed letter to the Additional Registrar General to the Madras High Court in D.No.478 dated 11.09.2020 informing that due to the interim stay granted subsequently in Crl.O.P.(MD).No.370 of 2020, she is unable to comply the direction of this Court to dispose the D.V.O.P.121 of 2016 within a period of three months and therefore sought for a clarification.

10. In the said circumstances, the transfer petition is listed and heard today.

11. The learned counsel appearing for the respondents in Crl.O.P.(MD).No.370 of 2020 submitted that the reasons stated by the petitioner Vidhya for transfer is not tenable since she and her family members are regularly attending Court at Madurai in other cases and in fact, even in the month of January and March, 2021 he appeared before the Mahila Court, Madurai in C.C.No.164 of 2018 and they were subjected to cross-examination by the very same counsel against whom the petitioner has made wild allegations.

12. When this Court posed a question to Mrs.Vidhya, where she is presently residing, she stated that she is presently employed at Bangalore and residing at Bangalore and therefore, it will be convenient for her to conduct the DVOP case at Hosur.

13. In normal course, this Court would have taken a sympathetic consideration while considering the transfer petition. However, in this case, this Court is unable to accept the request of the petitioner Vidhya to transfer the case for the reason that there are multiple proceedings between the parties are pending in Madurai Court, even if this case is transferred to Hosur, it is of no help to the petitioner herein, contrarily, it will cause difficulty for the witnesses to travel all along from Madurai to Hosur and depose.



14. Further since there are several other connected matters pending at Madurai, necessity may arise for the Court to call for the records in the other proceedings for proper adjudication. Unless proceedings are within the same Court, transfer of records may also cause difficulty for speedy disposal.

15. Taking note of the fact that the matter is pending for nearly five years and though presently it appears that Mrs.Vidhya is well employed and living in Bangalore, her grievance has to be redressed by completing the trial as early as possible. Therefore, this Court vacates the interim stay granted earlier by this Court on 10.01.2020 in CrI.M.P(MD)No.117 of 2020 and direct the trial Court to complete the trial within a period of three months from the date of receipt of a copy of this order.

16. With these directions, this Criminal Original Petition is disposed of. Consequently, connected CrI.M.P.(MD)No.117 of 2020 is closed. The request of the petitioner, Mrs.Vidhya, to recall the order dated 17.10.2019 passed in CrI.O.P(MD)No.13292 of 2017 is hereby rejected since it is devoid of merits both on facts and law.

Sd/-

Assistant Registrar (Records)

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/ /2022

Sub Assistant Registrar(CS)

PJL

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,  
Additional Mahila Court,Madurai.

2.The Judicial Magistrate No.II,Hosur.

Copy to:

The Registrar(Judicial),  
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate( SR-1236[F] dated  
11/01/2022 )

**CrI.O.P. (MD)No.370 of 2020**  
**07.01.2022**

MGJ(31.01.2022) 5P 5C

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