



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25898 of 2022

Soniya

..Petitioner

Vs

1.The District Social Welfare Officer,
District Social Welfare Department,
Collectorate,Thanjavur,
Thanjavur District.

2.Kumaresan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to take necessary action on the Petitioner's representation, dated 29.9.2022 under the Tamil Nadu Prevention of Domestic Violence Act within the time stipulated by this Court.

For Petitioner : Mr.M.Ramu

For Respondent-1: Mr.D.Sadiq Raja
Addl Govt. Pleader

ORDER

The Petitioner has prayed for issuance of a Writ of Mandamus directing the first respondent to take necessary action on the Petitioner's representation, dated 29.9.2022 under the Tamil Nadu Prevention of Domestic Violence Act within the time stipulated by this Court.



2.Mr.D.Sadiq Raja, learned Additional Government Pleader takes notice for the first respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the Petitioner is that the Petitioner's marriage with the second respondent was solemnized on 13.6.2019 and out of the said wedlock, they were blessed with a female child. When they were leading the matrimonial life, the second respondent had tortured the Petitioner both physically and mentally and hence the Petitioner left the matrimonial home and went to her parental home.Further, the second respondent is facing number of criminal cases. In order to protect the child and herself, the Petitioner has submitted a representation on 29.9.2022 to the first respondent and the same was received on 30.09.2022. If the Petitioner leads her matrimonial life with the second respondent, the Petitioner and her child will be murdered by the second respondent and prays for taking appropriate action on her representation, dated 29.9.2022. Since no action was taken, the Petitioner has filed this Writ Petition.

4.Section 5 of the Protection of Women from Domestic Violence Act, 2005 deals with **Duties of Police Officers , service providers and Magistrate**, which states that " A Police Officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or its otherwise present at the place of an incident of domestic



violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person--

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987;

(e) of her right to file a complaint under Section 498-A of the Indian Penal Code (45 of 1860) wherever relevant.

5. Protection of Women From Domestic Violence Act, 2008 is a self contained code, wherein, Section 9 deals with "**Duties and Functions of Protection Officers**", in which, Section 9(2) states that the protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under this Act.

6. Section 10 of the above Act deals with service providers which reads as follows:



10 Service Providers--(1) subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860(21 of 1860) or a company registered under the Companies Act, 1956(1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2)A service provider registered under sub-section (1) shall have the power to --

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the Police Station within the local limits of which the domestic violence took place

© ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the Police Station within the local limits of which the domestic violence took place



(3) No suit, prosecution, or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under the Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

7. Section 12 deals with Application to Magistrate (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act.

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the Service Providers¹

(2).....

(3).....

(4).....

(5) The Magistrate shall endeavour to dispose of every application made under subsection (1) within a period of sixty days from the date of first hearing.

8. In view of the above settled law, the Petitioner is directed to go

before the concerned Magistrate by way of necessary application for



necessary relief, if so advised.

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9. With the above observation, the Writ Petition stands dismissed. No costs.

16.11.2022

Index : Yes/No

Internet: Yes/No

vsn

To

The District Social Welfare Officer,
District Social Welfare Department,
Collectorate, Thanjavur,
Thanjavur District.



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V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN
W.P(MD)No.25898 OF 2022

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