

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2015

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.14185 of 2015

Rashida Khan

... Petitioner

Vs.

State by;
Inspector of Police,
Arumbakkam Police Station,
Chennai.

... Respondent

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondent-Police to execute the non-bailable warrant dated 02.12.2014 issued by the learned Chief Metropolitan Magistrate, Egmore in C.C.No.8970 of 2007.

For Petitioner : Mr.C.Rajan

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This petition has been filed seeking to direct the respondent-Police to execute the non-bailable warrant dated 02.12.2014 issued by the learned Chief Metropolitan Magistrate, Egmore in C.C.No.8970 of 2007.

2. In the affidavit filed in support of this petition, it has been averred by the petitioner that the petitioner herein had filed a petition for maintenance under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986, against her husband Gaffar Khan, before the learned Chief Metropolitan Magistrate, Egmore, Chennai and the same was taken on file in C.C.No.8970 of 2007. After enquiry, the learned Chief Metropolitan Magistrate, Egmore passed an order awarding a sum of Rs.65,000/- per month as maintenance. Apart from the said amount, a sum of Rs.1 lakh given by the petitioner at the time of marriage and also the mahar amount of Rs.1,11,251/-, totaling to Rs.2,11,251/- and jewels of 300 sovereigns were also ordered to be returned to the petitioner. Against the said order, the husband of the petitioner preferred a revision petition in Crl.R.C.No.166 of 2010 before the Principal Sessions Judge, Chennai and the same was subsequently transferred to

the file of the learned V Additional Sessions Judge, Chennai for final disposal. But, the said revision was dismissed on 05.09.2011. Thereafter, the petitioner's husband preferred Crl.O.P.No.1304 of 2012 before this Court, but the same was also subsequently withdrawn by him. Since he has not complied with the order passed by the learned Chief Metropolitan Magistrate, Egmore, the petitioner herein had filed a petition before the learned Chief Metropolitan Magistrate, Egmore, wherein she was paid a sum of Rs.5,60,000/- as part of the maintenance amount. Thereafter, the petitioner herein filed a petition before the learned Chief Metropolitan Magistrate, Egmore under Section 3(4) of the Muslim Women (Protection of Rights on Divorce) Act, 1986, claiming maintenance as arrears for the period 24.10.2007 to 09.10.2010 amounting to Rs.30,22,500/- and also for return of the jewels. On 01.11.2012, the learned Chief Metropolitan Magistrate, Egmore passed an order directing the petitioner's husband to comply with the order dated 10.08.2010 passed in C.C.No.8970 of 2007 within a period of one month from 01.11.2012 and in the said order, the learned Magistrate has further observed that in the event of failure to comply with the order, warrant would be issued under Section 421(1)(b) of Cr.P.C. Against the said order, the petitioner's husband filed a revision in Crl.R.C.No.1465/2012, but the same was subsequently dismissed. The husband of the petitioner has not paid the amount to the petitioner herein. Hence, the learned Chief Metropolitan Magistrate, Egmore issued a Non-Bailable Warrant dated 02.12.2014 against the husband of the petitioner viz., Gaffar Khan and the said warrant has been sent by registered post to the respondent-Police. Though the said warrant was received by the respondent-Police, they failed to take any step to arrest the husband of the petitioner. Hence, the petitioner has come forward with the present petition before this court.

3. Today, when the matter is taken up for consideration, the learned Additional Public Prosecutor, on instructions, submitted that the warrant received from the learned Chief Metropolitan Magistrate, Egmore was misplaced by the respondent-Police and in spite of the best efforts, they are not able to trace out the same.

4. In view of the submission made by the learned Additional Public Prosecutor, this Court directs the petitioner to approach the learned Chief Metropolitan Magistrate, Egmore, by filing an application along with a copy of this order, for issuance of Non-bailable warrant once again, within a period of one week from the date of receipt of a copy of this order. On filing such application, the learned Chief Metropolitan Magistrate, Egmore is directed to pass an appropriate order on merits and in accordance with law, as early as possible.

With the above directions, this criminal original petition is disposed of.
Ssv

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

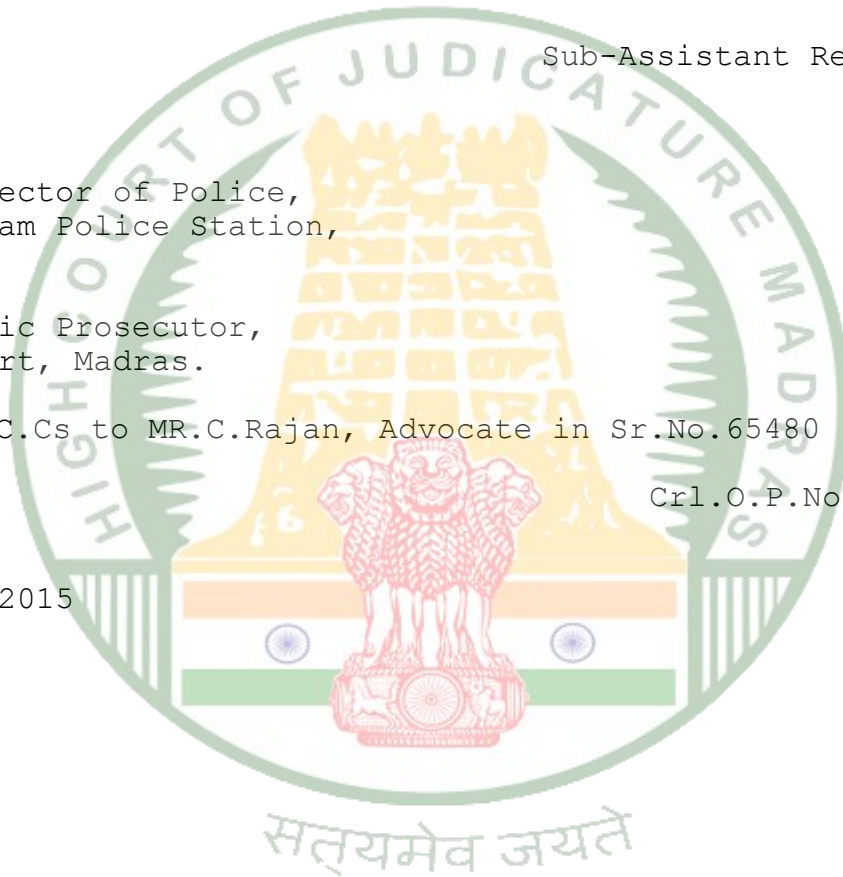
To,

1. The Inspector of Police,
Arumbakkam Police Station,
Chennai.
2. The Public Prosecutor,
High Court, Madras.

+2 C.Cs to MR.C.Rajan, Advocate in Sr.No.65480

CrI.O.P.No.14185 of 2015

SVI (CO)
sd : 22/12/2015



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