

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-8-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.28307 of 2014

Kumaresan

.. Petitioner

Vs.

1. State of Tamil Nadu
rep.by its Director General of Police,
Beach Road, Mylapore,
Chennai.
 2. Murali, ADSP,
High Court Police Station,
Chennai.
 3. Geetha, Iop,
High Court Police Station,
Chennai.
- ... Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to initiate action against the 2nd and 3rd respondents in terms of the second sentence of para 111(IV) of the Constitution Bench Judgment in W.P.(CrI).68 of 2008 dated 12.11.2013.

For Petitioner : Mr.Madhankumar
for Mr.S.Anburaj

For Respondents : Mr.S.Shanmugavelayutham,
Public Prosecutor
assisted by
Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

At the request of the petitioner/learned counsel for the petitioner, this case along with CrI.O.P.No.6140 of 2014 was adjourned from 27.7.2015 to 28.7.2015, 6.8.2015, 17.8.2015, 24.8.2015 and 27.8.2015.

(i) On 6.8.2015 Mr.Manikandan Vathan Chettiar represented that he is going to make a representation to the Chief Justice that his cases shall not be posted before this Court, and on that ground he sought adjournment, and accordingly the case was adjourned to 17.8.2015.

(ii) On 17.8.2015 it was represented that the petitioner has given a letter to the Chief Justice for listing the cases before some other Court, and orders are awaited, and on that ground sought adjournment, and accordingly the case was adjourned to 24.8.2015.

(iii) Mr.Madhankumar, learned counsel appeared on behalf of the petitioner on 24.8.2015 and he sought adjournment on the same ground, and the case was again adjourned to 27.8.2015 (today) for orders, finally.

Thus, this Court gave enough sufficient time to the petitioner as prayed for, to obtain orders from the Chief Justice to take the matter out of board of this Court. But till date no such order was produced before this Court.

2. A perusal of the records shows that the Administrative Judge has directed to list this case before this Court. Hence the request of the petitioner/learned counsel for the petitioner for taking the case out of this Court is rejected.

3. When the matter was taken up for hearing today, Mr.Madhankumar, learned counsel appearing for the petitioner submitted that change of vakalat is to be filed in this case. When this Court put a pointed question to Mr.Madhankumar, he submitted that change of vakalat is coming by courier service. This Court cannot take note of all these things.

4. Coming to the case on hand, this petition is filed by one Kumaresan with the following prayer:

"Hence this plea seeking initiation of action against the 2nd and 3rd respondents in terms of the 2nd sentence of para 111 (IV) of the Constitution Bench judgment in W.P.(Crl).68 of 2008 dated 12.11.13, and rendere justice."

5. The third respondent has filed a report dated 28.10.2014, which was served on the learned counsel appearing for the petitioner as early as on 27.7.2015, wherein it is stated as follows:

"2. It is respectfully submitted that actually the petitioner Tr.K.S.Kumaresan preferred a complaint on 9.6.2014 at 18.00 hours, before

Tr.Murali, the then Additional Superintendent of Police, U.S.R.B., Holding Additional Charge of High Court Security, Chennai, stated that his wife Tmt.Aruna was abducted by his parents-in-laws and other relatives on 28.3.2011 near North Bus stand, Chennai and requested to secure his wife Tmt.Aruna.

3. It is respectfully submitted that the above complaint was handed over to me by the then Additional Superintendent of Police on the same day in the presence of the petitioner. Based on the above, I immediately issued a C.S.R.No.76/CSR/B4/2014 to the petitioner and requested him to narrate the incident for the purpose of enquiry. But, the petitioner informed that since he was having some urgent personal work at Nagapattinam, he wants to go immediately and he will be back for enquiry within a short span of time. The petitioner did not furnish his contact phone number for enquiry purpose even though I requested him to furnish the same.

4. It is submitted that in order to enquire the petitioner, since he was not appeared before me for enquiry, we have contacted his address given in the complaint, i.e., No.29, A1-Nisha Mahal OVM Street, Triplicane, Chennai-5 and found that it is a Mansion and at present he is not staying in that Mansion and vacated it on 16.6.2014, i.e., immediately after preferring the complaint. Hence, we have verified the other address which was found in the Certificate of Marriage, i.e., A5 Grems Road, New Police Quarters, Thousand Lights, Chennai-6 and found that for the past 1 1/2 years one Tr.Petchimuthu, Gr-I PC 26109 attached with Armed Reserve, Chennai was residing in that address. The second address was also found to be fake. Also, the petitioner did not turn up for enquiry purpose till date and thus not at all co-operated with the third respondent for enquiry till date.

5. It is submitted that even though the petitioner is not at all co-operating with the third respondent for enquiry, I have conducted the enquiry in a fair, free and impartial manner and also in accordance with law.

6. It is further submitted that so far the enquiry reveals that the petitioner and his wife,

Tmt.Aruna got married on 18.3.2011 at No.9 Rajagopal Street, Old Washermenpet, Chennai-21 at Sub-Registrar Office at Royapuram, Chennai. But, due to the difference of opinion among the couples, the said Tmt.Aruna left the petitioner on 28.3.2011 voluntarily on her own and resided with her parents at Puducherry.

The enquiry further reveals that the said Tmt.Aruna again got married with one Tr.Tirumavalavan at Nagapattinam on 17.8.2011. After the marriage with the said Tr.Tirumavalavan, they moved to France and now they are residing at No.13, Thiers, 93270 Sevren, France. Out of the wedlock, they got a male baby, apart from that she was already having another girl child.

7. It is submitted that the enquiry with the said Tmt.Aruna over phone reveals that the petitioner, Tr.Kumaresan had gone to France prior to this complaint, met Tmt.Aruna at her residence and had some altercation in this regard. It is also found that when the petitioner was not able to settle the matter amicably with the said Tmt.Aruna, preferred this false complaint as if she was abducted. During the enquiry Tmt.Aruna informed that she is ready even to appear before the Court whenever required and denied that she was abducted by her parents and relatives, as alleged by the petitioner in his complaint. The said Tmt.Aruna has also furnished the documents pertaining to the above petition, i.e, copy of the Marriage Certificate, her written statement, translation documents of the marriage which was in French, etc., for the purpose of enquiry.

8. It is further submitted that only due to the non-cooperation of the petitioner, the Third respondent unable to proceed further enquiry even though the said Tmt.Aruna is willing to appear before the Court and also before the third respondent for the purpose of enquiry whenever required. Hence, for the above said reasons, the above said C.S.R. is still pending."

In view of the above, no further order need be passed as prayed for by the petitioner.

6. In the result, the report submitted by the third respondent is accepted and this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

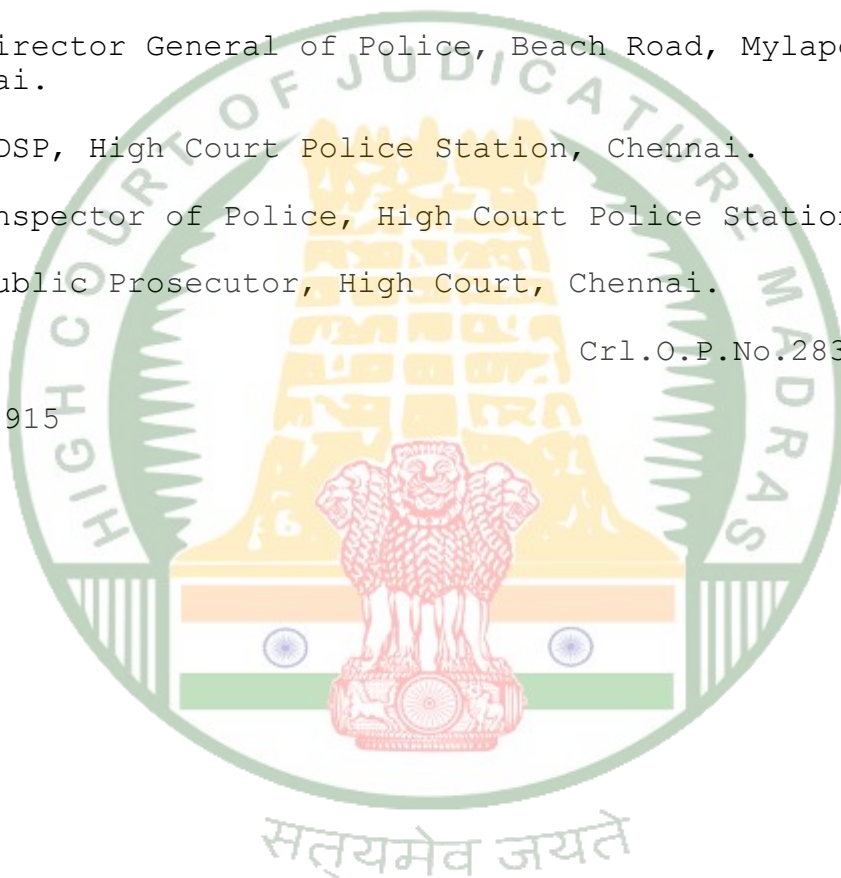
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To

1. The Director General of Police, Beach Road, Mylapore, Chennai.
2. The ADSP, High Court Police Station, Chennai.
3. The Inspector of Police, High Court Police Station, Chennai.
4. The Public Prosecutor, High Court, Chennai.

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Cr1.O.P.No.28307 of 2014



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