

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.9108 of 2015
and M.P.No.1 of 2015

- 1.K.Mohamed Farook
S/o.R.Kamal Batcha
 - 2.R.Kamal Batcha
S/o.Rasul Sahib
 - 3.K.Rahamath Beve
W/o.R.Kamal Batcha
 - 4.S.Abdul Ajeez
S/o.Shaik Mohideen
 - 5.A.Nabishabi
W/o.Abdul Ajeez
 - 6.A.Mohamed Farook
S/o.Abdul Sukkoor
 - 7.A.Hidhayadullah
S/o.Abdul Rahman
- ... Petitioners/ Accused

- 1.State represented by
The Inspector of Police,
All Women Police Station,
Attur, Salem District. ...1st Respondent/ Complainant
- 2.A.Janarthali Begum ...2nd Respondent/
Defacto complainant

Criminal Original Petition filed under section 482 of Criminal Procedure Code praying to call for the records relating to C.C.No.85 of 2014 in Crime No.9 of 2014 on the file of learned Judicial Magistrate II, Attur and quash the same.

For Petitioners : Mr.R.Nanda Kumar

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor [R1]

O R D E R

This petition is filed to quash the proceedings in C.C.No.85 of 2014 on the file of learned Judicial Magistrate II, Attur.

2. The defacto complainant is the wife of the first petitioner and they got married on 10.10.2010. It appears that the matter was dealt with by Jamath of both parties in spite of which, no compromise could be arrived at. The defacto complainant lodged a complaint against her husband and in-laws. Based on which, a case in Crime No.9 of 2014, for offence under Sections 498(A) and 506(i) ICP was registered by the respondent police and after completing investigation, final report has also been filed and the same has been taken on file in C.C.No.85 of 2014.

3. The learned counsel for the petitioner submits that the wife had obtained "Kula deed" from the husband and that this prosecution is an abuse of process of law.

4. Just because, the parties have divorced, the offence will not abate. On a reading of the 161 Cr.P.C. statement and the final report, there are sufficient materials for proceedings of the trial, this Court is not inclined to quash the proceedings in C.C.No.85 of 2014. Hence, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

5. The learned counsel for the petitioners submits that the petitioners 2 to 5 and 7 are elderly persons and their presence may be dispensed with.

6. Recording the statement, this Court directs all the petitioners/accused to appear before the trial Court for collecting the papers under Section 207 Cr.P.C. for answering the charge and also for answering the question under Section 313 Cr.P.C. and on the day of judgment. In the meantime, if the petitioners 2 to 5 and 7 file an application under Section 205 Cr.P.C., the same may be liberally considered by the trial Court and their presence may be dispensed with on condition that they will not seek unnecessary adjournments when witnesses are present and that they will not dispute their identity.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Judicial Magistrate II,
Attur.

2. Do thro the Chief Judicial Magistrate
Salem

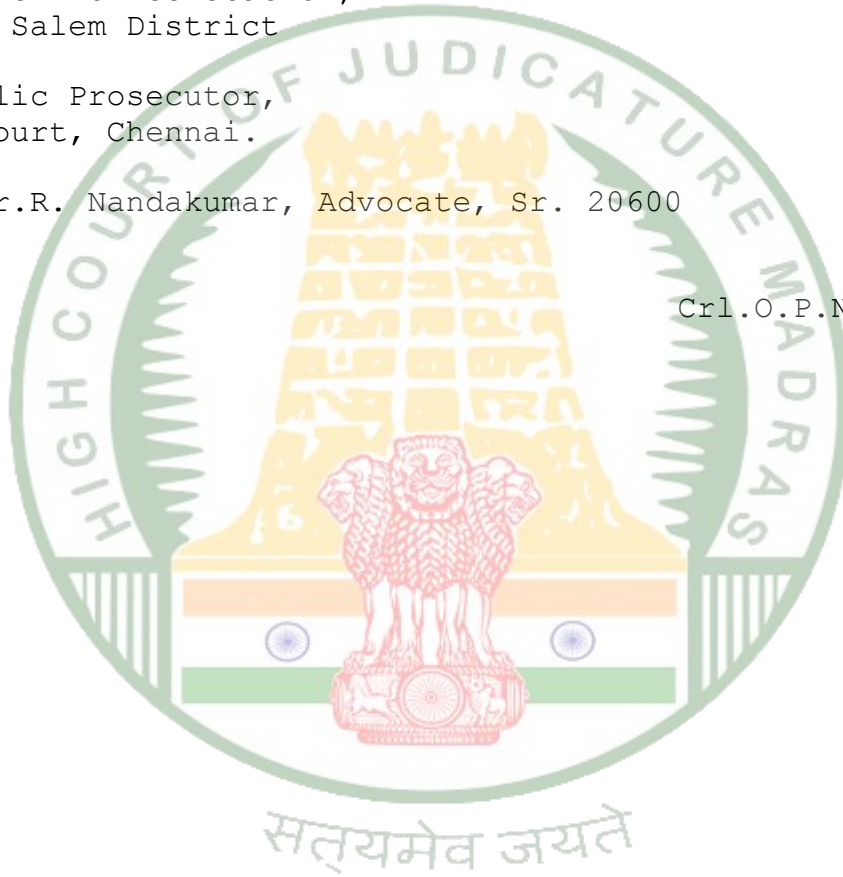
3. The Inspector of Police,
All Women Police Station,
Attur, Salem District

4.The Public Prosecutor,
High Court, Chennai.

1 cc to Mr.R. Nandakumar, Advocate, Sr. 20600

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