

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.32353 of 2013
and M.P.No.1 of 2013

1.A.Pannerselvam
2.Mercy Kumari
3.Esther Paneerselvam
4.Richard Boon ...Petitioners/Accused 2to5
Vs

1.The State of Tamil Nadu
Rep. by the Sub Inspector of Police,
All Women Police Station,
Guindy, Chennai.

2.Christine Vincent ...Respondents/Complainant/
and Defacto Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Crime No.13 of 2013 on the file of the 1st respondent and quash the same.

For Petitioners : Ms.M.Sneha
For Respondents : Mr.C.Emalias,
Addl Public Prosecutor [for R1]
: Mr.V. Raghunathan, Senior Counsel
for M/s.S.S.Jayanthi for R2

सत्यमेव जयते
O R D E R

This petition has been filed to call for the records in Crime No.13 of 2013 on the file of the 1st respondent and quash the same.

2. Heard the learned counsel for the petitioners; learned Additional Public Prosecutor for the 1st respondent; the learned Senior counsel for the 2nd respondent and perused the materials placed on record.

3. It is seen that the defacto complainant Christine Vincent got married to AlexDickNickoles Pannerselvam on 05.09.2012 and after marriage, the couple went to Singapore, where AlexDickNickoles is a permanent resident. Their marriage ran into rough weather, following which, the defacto complainant came to India and lodged the present complaint dated 13.09.2013, based on which, the respondent police registered a case in Crime No.13 of

2013 for an offence under Section 498A IPC against Alex Dick Nickoles and all his family members viz., his parents, brother and sister. The petitioners were arrested by the police and when they were produced before the Judicial Magistrate, Alandur, on 14.09.2013, the learned Judicial Magistrate, Alandur, rightly refused to remand the accused for the following reasons:

"Accused persons A2 to A4 produced for remand for offence under Section 498A IPC. Perused the records. There is no averments in the complaint or any records as to the implication of the accused. Hence, CD file called for. Perused the same. The I.O. was also asked to clarify the ingredients to implicate the accused. I.O. has not stated any reason while resubmitting as to how the accused were implicated in the case. The perusal of the CD records disclosed other than complaint, except the further statement of the defacto complainant, no other records found as the implication of the accused A2 to A4. Further the guidelines stated in the Circular Memorandum of Hon'ble High Court also has not been followed. Hence remand refused and the accused are set at liberty."

4. From the information supplied by the Registry, it is seen that the aforesaid order has been passed by Ms. Vidhya, Judicial Magistrate, Alandur. This Court places on record its appreciation for the proactiveness shown by her, while dealing with the accused, when they were produced before her after arrest. It is apparent that the learned Magistrate has understood the essence of the law of remand and it is heartening to note that, in substance she has followed what the Supreme Court mandated much later in *Arnesh Kumar Vs State of Bihar* [2014] 8 SCC 273). This appreciation may be placed in her service records.

5. Challenging the FIR, the family members [A2 to A5] are before this Court. On a complete reading of the FIR, this Court does not find an iota of incriminating material against the petitioners herein. That is exactly the reason why the learned Judicial Magistrate, Alandur, refused to even remand the petitioners to custody. In *Taramani Parakh Vs State of M.P. and others* reported in 2015 (3) Scale 616, the Supreme Court has held that, if there are some allegations against the in-laws, the prosecution should not be quashed. Unfortunately, the FIR in this case does not pass muster the law laid down either in *State of Haryana Vs Bhajan Lal* reported in 1992 Supp (1) SCC 335 or in *Taramani Parakh Vs State of M.P. and others* reported in 2015 (3) Scale 616 for upholding an FIR.

6. Under such circumstances, the FIR in Crime No.13 of 2013 against the petitioners herein alone is quashed. The 1st respondent police is directed to conduct the investigation expeditiously and proceed with the investigation as against A1. The investigation should be completed within a period of six months, from the date of

receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To

1.The Sub Inspector of Police,
All Women Police Station,
Guindy, Chennai.

2.The Public Prosecutor,
High Court, Madras.

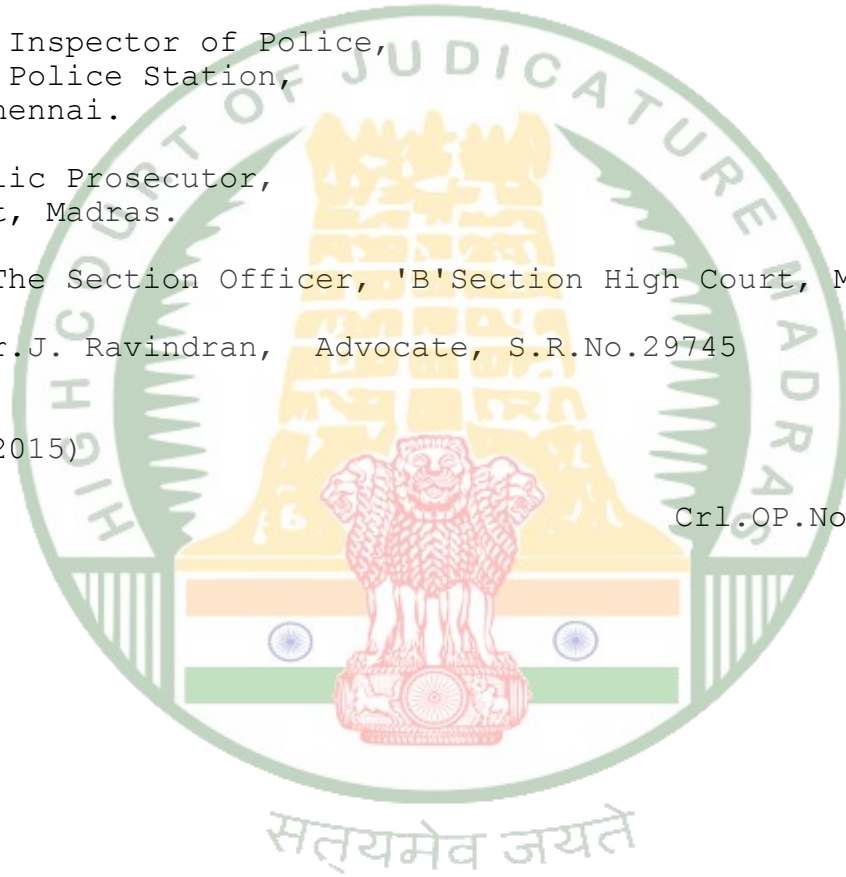
Copy to: The Section Officer, 'B' Section High Court, Madras.

+1cc to Mr.J. Ravindran, Advocate, S.R.No.29745

CTK(CO)

EU(09/07/2015)

Cr1.OP.No.32353 of 2013



WEB COPY