

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 13.07.2016

DELIVERED ON: 21.07.2016

CORAM:

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

Crl.O.P.No.8574 of 2012 and M.P. Nos.1 & 2 of 2012

1 Usharani

2 Tamil Kumaran Petitioners

Vs

1 The State represented by
the Inspector of Police
All Women Police Station
Denkanikottai Police Station
Krishnagiri District
(Crime No.9 of 2011)

2 Bakialakshmi Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C. No.18 of 2012 on the file of the District Munsif-cum-Judicial Magistrate Court, Denkanikkottai and quash the same as illegal.

For petitioners Mr. R. Sankarasubbu

For R1 Mr.C.Emalias
Additional Public Prosecutor

For R2 Private notice served - No appearance

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ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.18 of 2012 on the file of the District Munsif-cum-Judicial Magistrate Court, Denkanikkottai and quash the same as illegal.

2 For the sake of convenience, the parties will be referred to by their name.

3 Before going into the facts of the case, it is necessary to state the relationship among the parties.

4 One Thyagarajan had two wives, viz., X and Usharani. Muthukumaran is the son of Thyagarajan through X. After the demise of X, Thyagarajan married Usharani and through her, he has a son by name Tamil Kumaran. Thyagarajan has also breathed his last. Muthukumaran has married one Bakialakshmi.

5 On the complaint lodged by Bakialakshmi, the respondent police registered a case in Crime No.9 of 2011 and after completing the investigation, have filed a final report in C.C. No.18 of 2012 before the District Munsif-cum-Judicial Magistrate, Denkanikottai against Usharani (A1) and Tamil Kumaran (A2) for an alleged offence under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, challenging which, Usharani (A1) and Tamil Kumaran (A2) are before this Court.

6 Heard Mr. R. Sankarasubbu, learned counsel for the accused and Mr. C. Emalias, learned Additional Public Prosecutor appearing for the first respondent-State. Though notice was served on Bakialakshmi, she did not choose to enter appearance and therefore, her name was printed in the cause list, despite which, there was no representation on her behalf.

7 On the complaint given by Bakialakshmi, wherein, she had alleged that she was ill-treated by Usharani (A1) and Tamil Kumaran (A2) and that on 10.10.2011, she and her husband were chased out of house, First Information Report was registered in Crime No.9 of 2011 by the first respondent police.

8 For the incident that is said to have happened on 10.10.2011, the complaint was given on 28.11.2011 and the First Information Report was registered on the same day in Crime No.9 of 2011 for offences under Section 498-A IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act. As stated above, the police, after completing the investigation, have filed a final report in C.C. No.18 of 2012, wherein, the allegation appears to be different. Inasmuch as, it is alleged in the final report that on 18.04.2010, Bakialakshmi and her

husband were driven away by Usharani and Thamil Kumaran, the offence under Section 498-A IPC stood dropped and instead, an offence under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, has been included in the final report.

9 In order to get over this patent contradiction, the police have recorded the Section 161 statement of Bakialakshmi, wherein, she has stated that inadvertently she had given the date as 10.10.2011, whereas, the occurrence had taken place on 18.04.2010. This Court is unable to stomach this variation. Assuming for a moment that the incident had taken place on 18.04.2010 as found in the Section 161 statement of Bakialakshmi, the First Information Report has been registered only on 28.11.2011, which is more than a year.

10 On a conspectus of the facts obtaining in this case, it is obvious that there is a property dispute between Muthukumaran and his step-mother Usharani and step-brother Thamil Kumaran, after the demise of his father Thyagarajan. This property dispute has been given a criminal colour by using Bakialakshmi as a pawn. In the considered opinion of this Court, the prosecution against the accused in C.C. No.18 of 2012 on the file of the District Munsif-cum-Judicial Magistrate Court, Denkanikottai, is an abuse of process of law.

11 In view of the foregoing discussion, the prosecution as against the accused is liable to be quashed and is accordingly quashed.

In the result, this Criminal Original Petition stands allowed. Connected M.P. Nos. are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

cad

To

- 1 The Inspector of Police
All Women Police Station
Denkanikottai Police Station
Krishnagiri District
(Crime No.9 of 2011)

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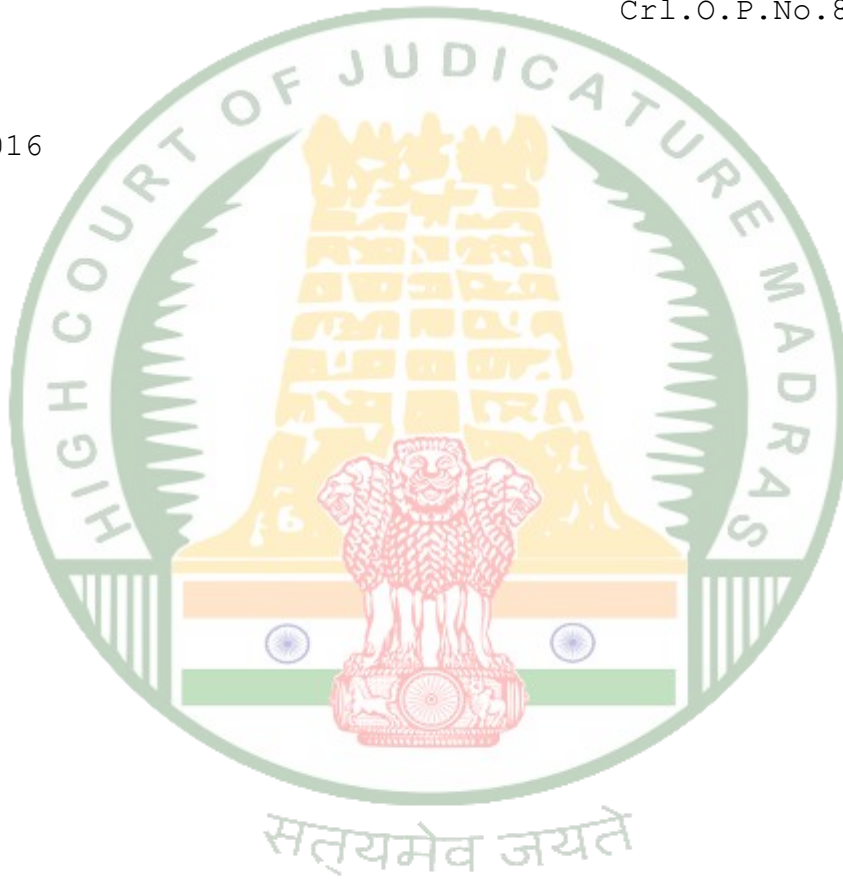
2. The District Munsif cum Judicial Magistrate Court,
Denkanikottai

3 The Public Prosecutor
High Court, Madras

+1 cc to Mr.R.Sankara Subbu Advocte vide sr.41234

Crl.O.P.No.8574 of 2012

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