

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2016

CORAM

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

Crl.O.P. No.17391 of 2016 & Crl.M.P. No.8320 of 2016

1 B. Loganathan
2 D. Bakthavachalam
3 B. Kalaiselvi
4 B. Bhavani Petitioners/Accused

Vs

1 State represented by
the Inspector of Police
D-3, Guduvanchery Police Station
Guduvanchery
Kanchipuram District
2 Sridevi Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in C.C. No.8 of 2013 on the file of the
Additional Mahila Court at Chengalpet and quash the same.

For petitioner Mr. Ilanthirayan
for M/s. Sai, Bharath & Ilan
For R1 Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for
the records in C.C. No.8 of 2013 on the file of the Additional
Mahila Court at Chingleput and quash the same.

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

3 On the complaint lodged by Sridevi/de facto
complainant, the first respondent police registered a case in
Crime No.92 of 2009 and after completing the investigation,
filed a final report in C.C. No.8 of 2013 before the Judicial

Magistrate Court No.II (Additional Mahila Court), Chengalpet under Section 498-A and 406 IPC read with Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and Section 4 of the Dowry Prohibition Act against Loganathan (A1), Bakthavatsalam (A2), Kalaiselvi (A3) and Bhavani (A4), challenging which, all the accused have preferred this petition to quash the proceedings in C.C. No.8 of 2013 on the ground that the parties have arrived at a settlement.

4 During the course of arguments, Mr. Ilanthirayan, learned counsel for Sridevi submitted that Sridevi is P.W.1 before the Trial Court and she turned hostile and thereafter, her mother was examined as P.W.2 and she too turned hostile. In the meantime, Sridevi and her husband Loganathan (A1) appear to have arrived at a compromise, pursuant to which, they filed H.M.O.P. No.137 of 2014 under Section 13-B of the Hindu Marriage Act before the Sub-Court Chengelpet, seeking divorce, which was allowed on 01.07.2015. It appears that Sridevi has filed M.C. No.12 of 2010 before the Chief Judicial Magistrate Court, Chengalpet, under Section 125 Cr.P.C. seeking maintenance for her daughter and the matter was referred to Lok Adalat, where, it has been settled amongst the parties, under which, Loganathan agreed to give Rs.5 lakhs as full and final settlement of maintenance for the child and the same has also been paid. Thereafter, Sridevi filed a petition in C.C. No.8 of 2013 before the Judicial Magistrate Court No.II, Chengalpet, stating that in view of the compromise, the prosecution against Loganathan and others may be dropped. Since Sridevi did not appear before the Trial Court further, the matter was getting adjourned repeatedly. Hence, Loganathan and the other accused are before this Court for quashment of the prosecution.

5 On the directions of this Court, the first respondent police produced Sridevi before this Court. She stated that she had received Rs.5 lakhs and further wanted some more money as monthly maintenance for her daughter. Loganathan who was present in the Court submitted that he is presently paying Rs.1,500/- per month from January 2015 onwards and produced unimpeachable records to establish his stand in this regard. Sridevi also agreed that Loganathan has been paying Rs.1,500/- per month, but, she wants some more money. This Court cannot force any settlement on Sridevi as it is her prerogative. However, she was examined-in-chief on 27.07.2012 and 22.08.2012 on which dates, she supported the prosecution case. On 05.09.2013, when she was recalled, she completely turned hostile and she was cross-examined by the prosecution with the leave of the Trial Court on the same day.

6 From the above, it is clear that Sridevi is

prevaricating even after receiving Rs.5 lakhs from Loganathan and also Rs.1,500/- per month as maintenance. Before this Court also, she is asking for Rs.3,000/- per month, whereas, Loganathan is prepared to pay upto Rs.2,000/- per month.

7 As stated above, this Court cannot force Sridevi to any settlement. However, the Trial Court is directed to bear in mind, the aforesaid observations of this Court and the conduct of Sridevi while proceeding further with the case and complete the trial within a period of three months. The presence of Bakthavatsalam (A2), Kalaiselvi (A3) and Bhavani (A4) before the Trial Court is dispensed with and they shall appear for questioning under Section 313, Cr.P.C. and on the date of judgment.

With the above observations, this Criminal Original Petition stands disposed of. Connected CrI.M.P. is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

cad

To

1 The Judicial Magistrate No. II
Additional Mahila Court ,
Chingleput

2 The Inspector of Police
D-3, Guduvanchery Police Station
Guduvanchery
Kanchipuram District

3 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1 CC to M/s. Sai, Bharath & Ilan, Advocate, Sr.No.48826

CrI.O.P. No.17391 of 2016

GR (CO)

MD : 19/09/2016