

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 19.08.2016

PRONOUNCED ON: 26.08.2016

CORAM:

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

Crl.O.P. No.4196 of 2011 and M.P. No.1 of 2011

S. Siva

Petitioner

vs.

1 The Inspector of Police
W-32, All Women Police Station
Madipakkam
Chennai

2 N. Ambika

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records relating to C.C. No.803 of 2007 on the file of the Judicial Magistrate Court at Alandur, Chennai - 16 and quash the same.

For petitioner Mr. Siva - Party-in-person

For R1 Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to call for the records relating to C.C. No.803 of 2007 on the file of the Judicial Magistrate Court at Alandur, Chennai - 16 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 Ambika, the first respondent police registered a case in Crime No.1 of 2007 and after completing the investigation, filed a final report in C.C. No.803 of 2007 before the Judicial Magistrate Court, Alandur, Chennai, against Siva, the petitioner herein, for offences under Sections 498-A, 406, 506(II) IPC and Section 6 of the Dowry Prohibition Act, challenging which, Siva is before this Court.

4 Heard Siva, party-in-person and Mr. C. Emalias, learned Additional Public Prosecutor appearing for the first respondent police.

5 Siva submitted that his marriage with Ambika did not take place on 13.11.2005, whereas, she came as a Cook and thereafter, he married her only on 26.04.2006 and therefore, the entire allegation in the FIR and consequently, the charge sheet built upon it, are a total falsehood. He further submitted that Ambika has given conflicting version in her evidence before the Family Court.

6 The learned Additional Public Prosecutor submitted that the trial in C.C. No.803 of 2007 is almost complete and three witnesses have been examined and that it is only Siva who is putting spokes in the completion of the trial, by adopting dilatory tactics.

7 In the considered opinion of this Court, whether the marriage between Siva and Ambika took place on 13.11.2005 or on 26.04.2006, is a disputed question of fact, which cannot be gone in a proceedings under Section 482, Cr.P.C. for quashing the criminal prosecution. That apart, trial in this case is almost over and witnesses have also been examined. Under such circumstances, this is not a fit case to quash the prosecution.

8 Since this case is of the year 2007, this Court directs the Trial Court to complete the trial in C.C. No.803 of 2007 within a period of three months from the date of receipt of a copy of this order. It is made clear that Siva shall cross-examine the witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinoth Kumar vs. State of Punjab [2015 (1) MLJ (CrL.) 288]. It is also made clear that if Siva adopts any further dilatory tactics, the Trial Court can remand him to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319].

In the result, this Criminal Original Petition is dismissed with the above directions. Connected M.P. is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
W-32, All Women Police Station
Madipakkam
Chennai

2 The Judicial Magistrate Court
Alandur, Chennai

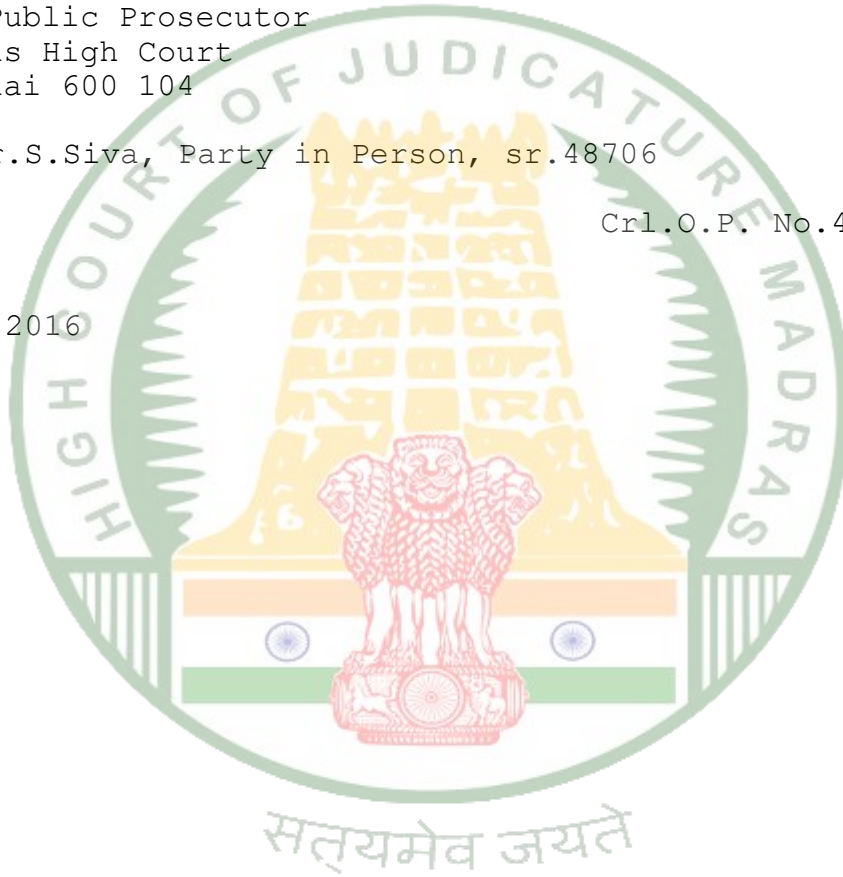
3 The Public Prosecutor
Madras High Court
Chennai 600 104

1 cc to Mr.S.Siva, Party in Person, sr.48706

Crl.O.P. No.4196 of 2011

ad co

kra 08.09.2016



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