

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.5463 of 2011 and MP No.1 of 2011

1. Kader Kutty Raja
2. Rameesa Beevi ...Petitioners

Vs

1. The Inspector of Police,
W-22, All Women Police Station,
Mylapore, Chennai.
2. H.A.Farhana Farveen ...Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash the FIR in Cr.No.15 of 2010 on the file of the first respondent the Inspector of Police, W-22, All Women Police Station, Mylapore, Chennai.

For Petitioners : Mr.N.A.Nissar Ahmed

For R1 : Mr.C.Emalias,
Additional Public Prosecutor

For R2 : M/s.R.Meenal

ORDER

This Criminal Original Petition has been filed seeking to call for the records and quash the FIR in Cr.No.15 of 2010 on the file of the first respondent police.

2. Heard the learned counsel for the petitioners, the learned Additional Public Prosecutor appearing for the State and the learned counsel appearing for the de facto complainant.

3. On the complaint lodged by one H.A.Farhana Farveen (de facto complainant/second respondent), the first respondent police registered a case in Cr.No.15 of 2010 for the offences u/s 498-A and 506(ii) IPC against Kader Kutty Raja and two others, challenging which, Kader Kutty Raja and Rameesa Beevi have filed the present quash application.

4. The learned counsel for the petitioners submitted that the first petitioner has pronounced three times "Talaq" as the second respondent is not interested in proceeding with the prosecution.

5. In the considered opinion of this Court, this cannot be a good reason for quashing the FIR, if the same discloses a commission of cognizable offence.

6. On a reading of the FIR, it is seen that H.A.Farhana Farveen got married to Kader Kutty Raja on 07.01.2010 and at the time of married, she was given 75 sovereigns of gold, because, it was insisted by the family of the bridegroom that 75 sovereigns of gold be given to the first daughter-in-law.

7. It is further alleged in the FIR that A1 was aged about 38 years, whereas, his age was shown as 32 years at the time of marriage. She has also alleged further acts of cruelty against the accused. Thus, when there are prima facie materials in the FIR for the investigation to proceed, the same cannot be quashed in the light of the law laid down by the Supreme Court in Bajanlal Vs. State of Haryana [AIR 1992 SC 604]. The Supreme Court in Arnesh Kumar v. State of Bihar and another [(2014) 8 SCC 273] has held that in matrimonial cases, there is a growing tendency by the complainants to implicate all the members of the husband's family and therefore, the Supreme Court has given a note of caution to the police not to be hasty by arresting the accused on the ipse dixit of the complainant. The respondent police is directed to bear in mind this aspect before filing the final report.

7. With the above observation, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

kmi

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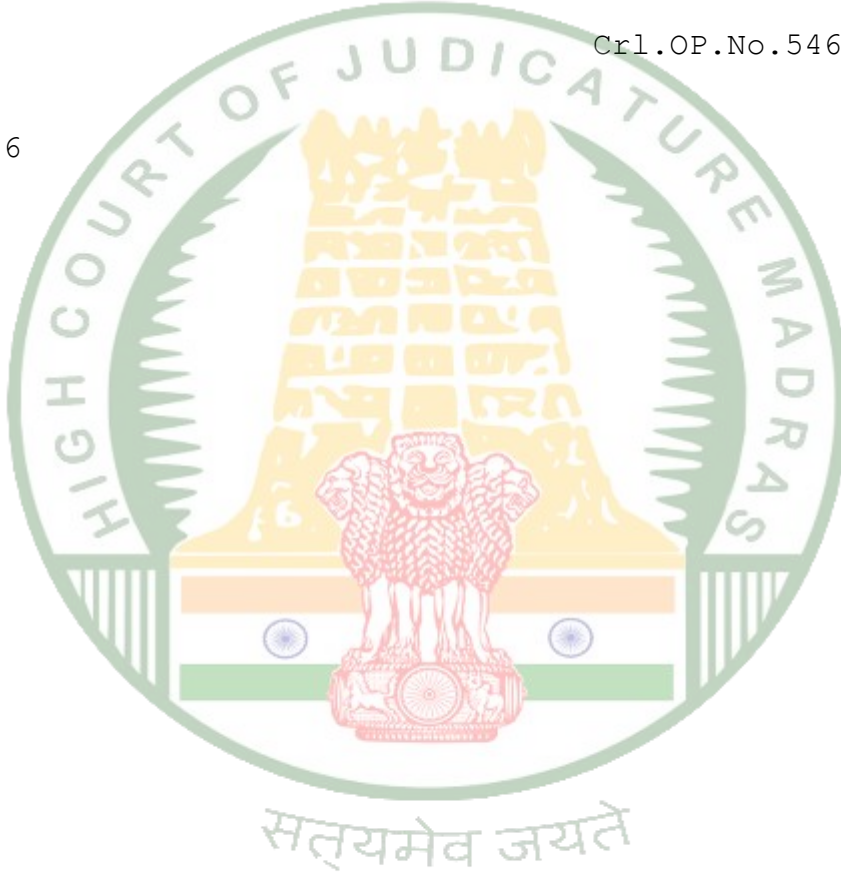
1. The Inspector of Police,
W-22, All Women Police Station,
Mylapore, Chennai.

2. The Public Prosecutor,
High Court, Chennai.

+ 1 cc to M/s. N.A. Nissar, Advocate Sr.61437

Cr1.OP.No.5463 of 2011

RSI (CO)
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