

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Cr1.O.P.NO.25756 of 2009

and M.P.No.1 of 2009

1. Manikantan
2. Mahalingam
3. Thirupurasundari ... Petitioners

Vs.

1. State rep. by
The Inspector of Police,
All Women Police Station,
Virudhachalam, Cuddalore District.

2.Bhuvanesari

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.96 of 2009 pending on the file of Judicial Magistrate No.I, Vridhachalam against the petitioners under Section 498-A, 406 IPC and Section 4 of Dowry Prohibition Act.

For Petitioners :No appearance

For Respondents :Ms.J.Shahana
Govt. Advocate (Cr1. Side)

सत्यमेव जयते
O R D E R

The petitioners have come forward with this Criminal Original Petition to quash the proceedings initiated against them under Sections 498-A, 406 IPC and Section 4 of Dowry Prohibition Act in C.C.No.96 of 2009, pending on the file of learned Judicial Magistrate No.I, Vridhachalam.

2. The petitioners would submit that they have been falsely implicated in this case. It is further averred that based on the complaint given by the 2nd respondent/defacto complainant, who is none other than the wife of the 1st petitioner, the police have registered a case in Crime No.4 of

2009 and a charge sheet has been filed in C.C.No.96 of 2009 on the file of the learned Judicial Magistrate No.I, Vridhachalam.

3. The case of the petitioners is that the 2nd respondent/defacto complainant is the second wife of the 1st petitioner and as the 1st wife died on account of ill health leaving behind two male children, the 1st petitioner married the 2nd respondent/defacto complainant on 02.06.2004. Due to misunderstanding, the petitioners have been implicated in the case. Thus, according to the petitioners, this Court may interfere and quash the C.C.No.96 of 2009 initiated against them.

4. The learned Government Advocate (Crl.side) submitted that after filing of this case, the 2nd petitioner/father of the 1st petitioner is no more and the matter is pending for a long time without any progress. Further, according to her, as there is a prima-facie case, detailed investigation has been conducted and the petitioners have been charge sheeted.

5. The averment of the petitioners is that the police have failed to get prior permission from the Social Welfare Officers before filing the case against the petitioners and that Criminal Original Petition No.8440 of 2009 seeking to quash the proceedings in FIR No.4 of 2009 is pending consideration before this Court.

6. On considering the submissions made by the learned Government Advocate (Crl.side) and on considering the facts and circumstances of the case and upon perusing the materials available on record, I find that there are disputed questions of fact involved in this case and hence the matter will have to be tried by the appropriate Court.

7. That apart, in view of the judgment of the Hon'ble Supreme Court in HMT Watches Ltd., Vs. M.A.Abida & Another reported in (2015(2) CTC 446), wherein, it has been held that quashing of a criminal complaint on the disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaints, I find no reason to entertain the relief, as sought for by the petitioners.

8. In the result, the Criminal Original Petition is dismissed. The Trial Court is directed to expedite the hearing of the case in C.C.No.96 of 2009 and proceed with the matter on a day-to-day basis and the matter shall not be adjourned beyond three working days, at any point of time and take a decision, as expeditiously as possible. It is seen that the third petitioner is a lady aged about 55 years at the time of filing of this petition. Hence, this Court directs the trial Court to dispense with her personal appearance before it, upon the third petitioner swearing to an affidavit informing her address for

service, that she duly would be represented by her counsel on all hearing dates, that she would, at no instance, dispute her identity and that, she would appear before the trial Court, as and when required. Upon the third petitioner doing so, the trial court may seek the presence of the third petitioner before it, solely on the important hearing dates. It is made clear that the 1st petitioner/accused shall appear before the trial Court, on all hearings without fail.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

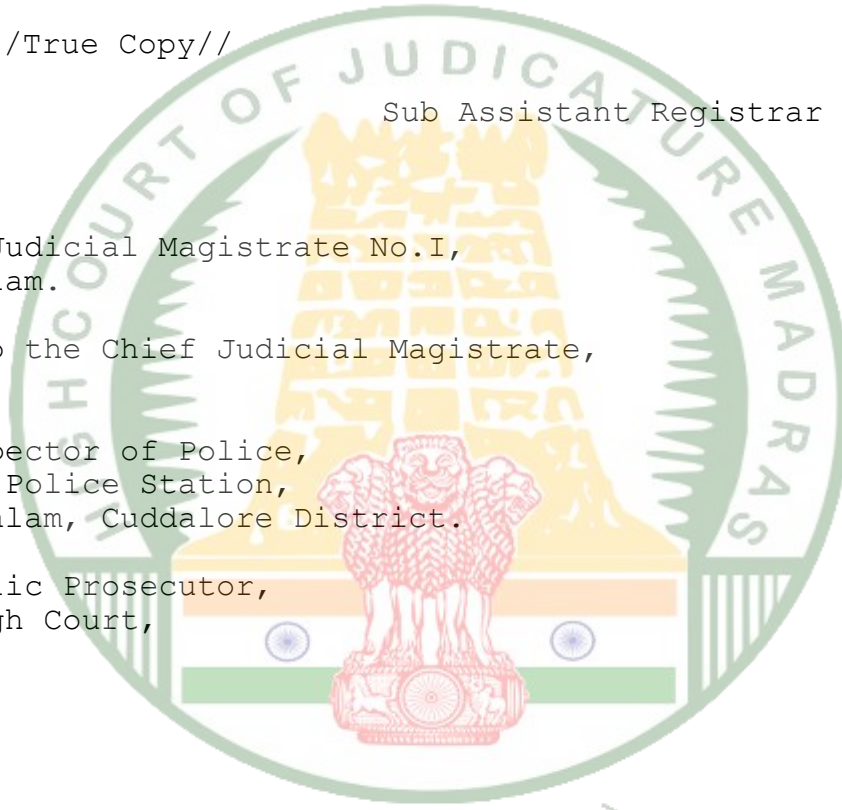
To

1. The Judicial Magistrate No.I,
Vridhachalam.

2.-Do-Thro the Chief Judicial Magistrate,
Cuddalore.

3.The Inspector of Police,
All Women Police Station,
Virudhachalam, Cuddalore District.

4.The Public Prosecutor,
Madras High Court,
Madras.



Cr1.O.P.NO.25756 of 2009

rsy(CO)
srg(25/02/2016)

WEB COPY