

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09.09.2016

PRONOUNCED ON: 15.09.2016

CORAM:

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

Crl.O.P. No.20569 of 2016

&

Crl.M.P. No.9577 of 2016

S. Siva

... Petitioner

Vs.

1. The Inspector of Police
S-10 Pallikaranai Police Station
Chennai 600 100

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.916 of 2007 on the file of the Judicial Magistrate Court at Alandur, Chennai - 16 and quash the same.

For Petitioner : Mr. Siva - Petitioner-in-person

For R1 : Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records relating to C.C. No.916 of 2007 on the file of the Judicial Magistrate Court at Alandur, Chennai - 16 and quash the same.

2. On the complaint lodged by Ambika, the second respondent herein, the first respondent police registered a case in Crime No.1109 of 2007 and after completing the investigation, has filed a final report in C.C. No.916 of 2007 before the Judicial Magistrate Court, Alandur for offences under Sections 448, 294(b), 323 and 506(i) IPC read with Section 511 IPC against Siva, challenging which, Siva is before this Court.

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

4. Siva contended that he had not married Ambika as alleged by her on 13.11.2005 and that the allegations against him in the final report are also false. It is his further contention that he was discharged from C.C. No.916 of 2007 in C.M.P. No.9600 of 2009 and therefore, the prosecution is vitiated.

5. It may be relevant to state here that this issue already came up for consideration before this Court in CrI.O.P. No.15110 of 2016 that was filed by Siva and this Court, by order dated 26.08.2016, rejected this contention and held that he was not discharged as alleged by him and that he should face the trial.

6. Now, Siva is attempting to re-agitate the issue via this quash petition which cannot be countenanced. The fact remains that the trial has begun and Ambika has been examined-in-chief and she has been subjected to cross-examination.

7. It is the contention of Siva that there are several contradictions in the evidence of Ambika and ergo, the proceedings in C.C. No.916 of 2007 should be quashed.

8. This Court cannot step into the shoes of the Trial Court and appraise the evidence in a part heard case and quash the proceedings. Under such circumstances, this Court does not find any merit in this Criminal Original Petition.

9. In the result, this Criminal Original Petition is dismissed. Connected CrI.M.P. is closed. The trial Court shall ensure that Siva cross-examines the witnesses on the same day they are examined-in-chief, as held by the Supreme Court in Vinoth Kumar vs. State of Punjab [2015(1) MLJ (CrI.) 288]. It is also made clear that if Siva adopts any dilatory tactics, it is open to the Trial Court to remand him to custody, as held by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319].

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Inspector of Police
S-10 Pallikaranai Police Station
Chennai 600 100.
2. The Judicial Magistrate,
Alandur, Chennai.
3. The Public Prosecutor
Madras High Court
Chennai 600 104

+lcc to Mr.Siva, Petitioner-in-person, S.R.No.52724

CrI.O.P. No.20569 of 2016

NM(CO)
CA(29/09/2016)



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