

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2016

CORAM:

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

Cr1.O.P. No.21835 of 2016

P.S. Ananda Kumar

... Petitioner

Vs.

1. The State  
represented by the Inspector of Police  
W-26 All Women Police Station  
Ashok Nagar  
Chennai - 83

2. Rajalakshmi ... Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records in C.C. No.2589 of 2012, pending on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and to quash the same.

For petitioner : Mr. S. Thiruvengadam

For R1 : Mr. C. Emalias  
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records in C.C.No.2589 of 2012, pending on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and to quash the same.

2. On 04.10.2016, this Court passed the following order:  
"For the sake of convenience the private parties in this matter will be referred to by their names.

2. Sri.P.S.Ananda Kumar got married Ms.Rajalakshmi on 06.11.2005 and they have one child through the said wedlock. Their matrimonial life ran into rough weather and the spouses got estranged. Smt.Rajalakshmi has filed a petition in O.P. No.2690 of 2011 before the I Additional Family Court, Chennai for divorce.

3. Earlier, on the complaint given by Smt.Rajalakshmi a case in Crime No. 7 of 2011 was registered by the 1st respondent police against (1) Sri.Ananda Kumar [A1], the husband of Smt.Rajalakshmi (2) Sri.Santhana Kumar [A2], (3) Sri.Sundarajan [A3], (4) Smt.Kasthuri [A4] (5) Smt.Sumathi [A5] and (6) Smt.Prabavathy [A6], who are relatives of Sri.Ananda Kumar for offences under Sections 498A and 406 of IPC. After completing investigation, the 1st respondent police filed a final report in C.C.No.2589 of 212 before the XVII Metropolitan Magistrate, Saidapet, Chennai and the case is now pending trial.

4. Smt.Rajalakshmi and her daughter are now settled in United States of America, while Mr.Ananda Kumar settled in London on account of their employment. Smt.Rajalakshmi had given a power of attorney to her father Mr.K.Vijayakumar to represent her in the matrimonial proceedings and similarly, Mr.Ananda Kumar had given a power of attorney in favour of his father Mr.Sundarajan for the same purpose. It may be necessary to state that the father of Smt.Rajalakshmi, namely, Mr.K.Vijaya Kumar, who represented her in the matrimonial proceedings was a Additional Superintendent of Police in Tamil Nadu Police.

5. It is seen that Smt.Rajalakshmi and Sri.Ananda Kumar have arrived at a compromise between themselves and their respective power of attorney namely, Mr.K.Vijayakumar and Mr.Sundarajan have signed in the joint memo of compromise dated 23.04.2016 in O.P.No.2690 of 2011 under which para 4 states as follows:-

"(4) The petitioner is also further agreed to withdraw the Criminal Case filed against the respondent and his family members which is pending in C.C.No.2598 of 2012 on the file of XVII M.M. Court, Saidapet, Chennai."

The above said joint memo of compromise has also been filed before the Family Court concerned. Since Sri.Ananda Kumar was in London, a Look Out Circular was issued for apprehending him. In view of the compromise arrived at between the parties, Mr.Ananda Kumar has filed the present petition seeking to quash the criminal prosecution in C.C.No.2598 of 2012 pending before the XVII Metropolitan Magistrate, Saidapet, Chennai. When this court was informed by

the learned Additional Public Prosecutor that Smt.Rajalakshmi is not in India, this court directed the 1st respondent police to serve notice on Mr.K.Vijayakumar, the father of Smt.Vijayalakshmi, who represented her as Power of Attorney in the matrimonial proceedings before the Family Court.

6. Today, Mrs.Dhilnawas, the Inspectress of Police, W-26, All Women Police Station, Ashok Nagar, Chennai, is present. She has stated that she and her constable went personally on 01.10.2016 to the house of Mr.K.Vijayakumar to inform him about the proceedings and requested him to receive the summons. She has further reported that Mr.K.Vijayakumar behaved very rudely with her and told her that he would manage it himself. The petitioner has also sent a notice by way of registered post with acknowledgement due to Mrs.Rajalakshmi on 27.09.2016. The Inspector of Police has stated that the look out circular issued against Sri.Ananda Kumar has also been recalled in view of the compromise arrived at between the parties.

7. In view of the above, Registry is directed to print the name of Smt.Rajalakshmi and the name of her Power Attorney-Mr.K.Vijayakumar in the cause list and post this matter along with Crl.O.P.No.22015 of 2011 on 06.10.2016 for orders."

3. Today, Ms. D. Dhilnavaz, Inspector of Police, has filed an affidavit, wherein, at paragraph nos.1 and 2, it is stated as follows:

"1 I state that in the above matter as per the instructions of the Public Prosecutor Office, Madras High Court and as per the instruction received from the Commissioner of Police, I personally visited the house of Mrs. Rajalakshmi, D/o K.Vijayakumar, residing at No.48/96, Kothandaramaswamy Koil Street, West Mambalam, Chennai 600 033 on 30.09.2016.

2. I state that Mr. Vijayakumar who was present in the house refused to receive the notice carried by me and therefore, I returned without serving the notice."

4. The name of Vijayakumar and Rajalakshmi have been printed in today's cause list and Court Bailiff called their name thrice. There is no appearance nor any representation for them.

5. In view of the joint memo of compromise dated 23.04.2016 that has been filed before the I Additional Family Court, Chennai, the entire prosecution in C.C. No.2589 of 2012 as against all the accused, including those who have not filed quash application, is hereby quashed.

In the result, this Criminal Original Petition is allowed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Inspector of Police  
W-26 All Women Police Station  
Ashok Nagar  
Chennai - 83
2. The XVII Metropolitan Magistrate  
Saidapet  
Chennai
3. The Public Prosecutor  
Madras High Court  
Chennai 600 104

+1cc to Mr.S.Thiruvengadam, Advocate, S.R.No.57738

सत्यमेव जयते

Cr1.O.P. No.21835 of 2016

RK(CO)  
CA(10/11/2016)

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