

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 30.09.2016
CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
CRL.OP.No.22082 of 2016
and
Crl.M.P.No.10252 of 2016

1. Theerthagiri
2. S.Shakeela .. Petitioners.
Vs.

1. The State
Represented by the Inspector of Police,
All Women's Police Station,
Ambur.
Crime No.5 of 2016

2. Komathi .. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records of the proceedings in Crime No.5 of 2016 dated 17.08.2016 on the file of the 1st respondent police and to quash the same as illegal and without jurisdiction.

For Petitioners : Mr.Charan
for Mr.V.Raghavachari

For Respondent : Mr.C.Emalias,
No.1 Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records of the proceedings in Crime No.5 of 2016 dated 17.08.2016 on the file of the 1st respondent police and to quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

3. On a complaint lodged by Komathi, the first respondent police registered a case in Crime No.5 of 2016 on 17.08.2016 under Sections 498-A, 323 and 506(i) IPC against Ajaykumar (A1), Theerthagiri (A2) and Shakila (A3), challenging which, Theerthagiri (A2) and Shakila (A3) are before this Court on the ground that the FIR does not disclose their involvement in the aforesaid offence.

4. In support of their contention, Mr.Cheran, learned counsel appearing for the petitioners submitted that Ajaykumar (A1) has filed HMOP No.101 of 2013 before the Sub-Court, Arni against Komathi for divorce and the same is pending.

5. While so, Komathi filed a transfer petition in Tr.CMP No.320 of 2014 before this Court for transferring HMOP No.101 of 2013 from the file of Sub-Court, Arni to the file of the Family Court, Chennai, on the ground that she is living in Chennai. When Transfer CMP No.320 of 2014 came up for admission, this Court by order dated 12.06.2014 had referred the parties to the Mediation and Conciliation Centre.

6. While so, Komathi suddenly filed a memo in Tr.CMP No.320 of 2014 stating that she is living with her husband and therefore, sought permission to withdraw Tr.CMP.No.320 of 2014. Recording the said submission, this Court passed the following order on 01.09.2015, in Tr.CMP.No.320 of 2014:

" The learned counsel for the petitioner would submit that both parties are living together. Hence, he seeks permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

Recording the submission made by the learned counsel for the petitioner, this Transfer C.M.P. is dismissed as withdrawn. No costs. Consequently, connected miscellaneous petition is closed."

7. From the above, it is seen that Komathi and Ajaykumar (A1) are living together. While so, the allegation of Komathi that the petitioners, who are relative of Ajaykumar, had joined with Ajaykumar and are torturing her lacks substance. There is considerable force in the submission made by the counsel for the petitioners. However, this Court cannot quash at the threshold as investigation requires to be done in a case of this nature. The Supreme Court, in Arnesh Kumar Vs. State of Bihar ((2014) 8 SCC 273) has noted 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.

8. In the light of the above, this Court directs the Inspector of Police, All Women Police Station, Ambur, to dispassionately conduct investigation in Cr.No.5 of 2016 and bear in mind, the observation of the Supreme Court in Arnesh Kumar's case and if it is found that there are no materials to

implicate the petitioners herein, it is needless to state that they should not be arrayed as accused and the Deputy Superintendent of Police, Ambur, is directed to monitor the case.

With the above direction, the criminal original petition is closed. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms
To

1. The Deputy Superintendent of Police,
Ambur (with & direction to monitor the case)
2. The Inspector of Police,
All Women's Police Station,
Ambur.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.V.Raghavachari Advocate sr 56539

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