

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11..11..2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.22392 of 2016

S.Kalaiselvi

... Petitioner

-Versus-

1.The Inspector of Police,
Udumalpet Police Station,
Udumalpet, Tiruppur District.

2.The Inspector of Police,
All Women Police Station,
Udumalpet, Tiruppur District.

... Respondents

Petition filed under Section 482 of Cr.P.C. praying to direct the respondents to provide police protection / assistance to the petitioner and her seven years old son namely Ruthresh Goutham to enter and reside in anyone of the matrimonial home at No.101, Asokar Street, Pappanaickenpalayam, Coimbatore-37 and at D3/118G, S.V.Puram Venkatesa Mills Post, Udumalpet so as to implement the residential order passed in C.M.P.No.550 of 2016 in Domestic Violence Act case No.29 of 2012 on 02.09.2016 by the learned Judicial Magistrate No.VI, Coimbatore.

For Petitioner : *Mr.R.Y.George Williams*

For Respondent(s) : *Mr.C.Emalias, APP*

ORDER

This original petition has been filed seeking to direct the respondent police to provide police protection to the petitioner and her son for the implementation of the residential order dated 02.09.2016 passed in C.M.P.No.550 of 2016 in D.V.Case No.29 of 2012 by the learned Judicial Magistrate No.VI, Coimbatore.

2. On 21.10.2016, this court disposed of the present petition with the following directions:-

"4. In view of the above, the petitioner is directed to go in person with a copy of this order and to give a fresh representation to the Inspector of Police, All Women Police Station, Udumalpet, along with a copy of the order passed by the learned Judicial Magistrate No.VI, Coimbatore and on such representation being given, the Inspector of Police, All Women Police Station, Udumalpet, shall afford sufficient police protection and ensure the implementation of the order passed by the learned Judicial Magistrate No.VI, Coimbatore, provided the premises is not occupied by any third party or tenant."

3. While so, on 08.11.2016, this court was informed by Mr.G.J.Baskar Narayanan, the learned counsel for P.Srinivasa Goutham, that a number of orders passed by a learned single Judge of this Court in Crl.R.C.No.135 of 2015 have not been brought to the notice of this court. Accordingly, this court passed the following interim order on 08.11.2016:-

"After the order was pronounced on 21.10.2016, it is brought to the notice of this court by Mr.G.J.Baskar Narayanan, learned counsel for P.Srinivasa Goutham, that several orders have been passed by Brother S.Manikumar.J. in Crl.R.C.No.135 of 2015, which have not been brought to the notice of this court.

2. Mr.R.Y.George Williams, learned counsel for the petitioner submitted that the petitioner herein, has not apprised him of these orders.

3. Under such circumstances, the order dated 21.10.2016 under the caption "For being Spoken to"

The original petition has been accordingly listed today before this court for disposal.

4. Today, S.Kalaiselvi is present before this court. On instructions from her, Mr.George Williams, the learned counsel conceded that she had not divulged to him about the proceedings in Crl.R.C.No.135 of 2015 either to him or before the learned Judicial Magistrate No.VI, Coimbatore.

5. S.Kalaiselvi submitted a written apology and asked for being pardoned. She appears to be a estranged woman with a six years old son. Under normal circumstances, an order passed by this court cannot be reviewed in the light of Section 362 of Cr.P.C. However, the Hon'ble Supreme Court in **State of Punjab v. Devinder Pal Singh Bhuller and others, (2011) 14 SCC 770** has stated that where the order has been obtained by playing fraud, the power of this court to recall the order is not circumscribed by Section 362 of Cr.P.C. This Court does not want to punish S.Kalaiselvi as she is repentant. S.Kalaiselvi is warned not to resort to such suppression in court proceedings. Thus, the order of this court dated 21.10.2016 is liable to be recalled.

6. In the result, the Criminal Original Petition is dismissed and the order dated 21.10.2016 passed by this court in this original petition is recalled.

11..11..2016

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To

- 1.The Inspector of Police, Udumalpet Police Station, Udumalpet,
Tiruppur District.
- 2.The Inspector of Police, All Women Police Station, Udumalpet,
Tiruppur District.

P.N.PRAKASH.J.,

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Crl.O.P.No.22392 of 2016

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