

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

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

Crl.O.P. No.24446 of 2016 and Crl.M.P. No.11686 of 2016

- 1 B. Surendarkumar
- 2 C. Bhawankumar
- 3 Vasantha Bai
- 4 B. Vishalkumar
- 5 Surekha Petitioners/Accused
- vs.
- 1 The State of Tamil Nadu
by the Inspector of Police
Vandawashi Taluk
Thiruvannamalai District
- 2 The State of Rajasthan by
the Inspector of Police
Sendra Police Station
Pali District
Rajasthan
- 3 Vandana Respondents/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records on the file of the second respondent served through the first respondent dated 21.10.2016 and served on the petitioners on 23.10.2016 and quash the same.

For petitioners Mr. R. Singgaravelan, Sr. Counsel
for M/s. M. Srividhya
For R1 Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records on the file of the second respondent served through the first respondent dated 21.10.2016 and served on the

petitioners on 23.10.2016 and quash the same.

2 For the sake of convenience, the parties are referred to by their name.

3 Surendarkumar got married to Vandana on 21.05.2013 in Chennai and after their marriage, they set up their matrimonial home in Chennai. Since their marriage ran into rough weather, they got estranged. Vandana hails from Rajasthan and therefore, she joined her parents in Pali District in Rajasthan. Surendarkumar filed H.M.O.P. No. 6 of 2016 before the Sub Court, Cheyyar, Tamil Nadu, seeking divorce under Section 13(1)(ia) of the Hindu Marriage Act and the same is pending. While so, seemingly, Vandana has preferred a complaint against Surendarkumar and all his family members before the second respondent, viz., the Inspector of Police, Sendra Police Station, Pali District, Rajasthan, making certain allegations relating to matrimonial offences. Pursuant to the said complaint, a case in Crime No.147 of 2016 has been registered for offences under Sections 498-A, 406, 323, 376 511, 120-B and 313, IPC by the Inspector of Police, Sendra Police Station, Pali District, pursuant to which, he has issued notice for enquiry dated 21.10.2016 calling upon all the accused to appear before him on 04.11.2016. The said notice has been served on the accused on 23.10.2016 by the police officers from the second respondent police station. In the mean time, Surendarkumar and his family members have filed CrI.O.P. No.17921 of 2016 for inter-State anticipatory bail before this Court arraying Sendra Police and Vandana as well, as party respondents and the same is pending.

4 Under such circumstances, Surendarkumar and the other accused have preferred the present petition for quashing the notice dated 21.10.2016 issued by the second respondent police.

5 Heard Mr. R. Singgaravelan, learned Senior Counsel appearing for the petitioners and Mr. C. Emalias, learned Additional Public Prosecutor appearing for the first respondent police.

6 In Arnesh Kumar vs. State of Bihar and another, [(2014) 8 SCC 273], the Supreme Court has noticed the growing tendency of disgruntled wives making reckless allegations against their husband and all his family members in order to bring them within the net of the penal law for the purpose of harassing them. Therefore, the Supreme Court has issued clear-cut directions to the police throughout the country to first issue a notice under Section 41-A(1), Cr.P.C. and not to arrest the accused in haste. The second respondent police appears to be aware of this legal provision and that is why, they have issued notice dated 21.10.2016 to the accused/petitioners herein.

7 Furthermore, this Court does not have jurisdiction to interdict and quash the impugned notice that has been issued by the second respondent police in exercise of their lawful powers under the Code of Criminal Procedure.

8 However, liberty is reserved to the petitioners to approach the Rajasthan High Court within a period of two weeks from the date of receipt of a copy of this order, seeking appropriate relief in the light of the law laid down by the Supreme Court in Arnesh Kumar (supra).

With the above observations, this Criminal Original Petition stands disposed of. Connected Crl.M.P. is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

To

1 The Inspector of Police
Vandawashi Taluk
Thiruvannamalai District

2 The Inspector of Police
Sendra Police Station
Pali District
Rajasthan

3 The Public Prosecutor
High Court of Madras
Chennai - 600 104

+1 cc to Mr.M.Srividhya Advocate sr 62580

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