

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2016

CORAM:

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

Crl.O.P.No.4033 of 2016 and Crl.M.P. No.2089 of 2016

- 1 Pallikonda Srividya
2 Pallikonda Venkatalakshmi
Narasimma Sharma
3 Pallikonda Kanakavalli
Devanasa
- Petitioners 1to3/Accused 1to3

vs.

- 1 State by
Inspector of Police
Crime No.3/2014
All Women Police Station (W-32)
Madipakkam
Chennai 600 091
2 Suram Jayachandra Prasad
- Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C. No.209 of 2015 on the file of the Judicial Magistrate Court at Alandur and to quash the same.

For petitioners Mr. V. Ayyadurai

For R1 Mr.C.Emalias
Additional Public Prosecutor

For R2 Dr. A. Thyagarajan, Sr. Counsel
for Mr. S. Ramesh Kumar

ORDER

This Criminal Original Petition has been filed to call for the records in C.C. No.209 of 2015 on the file of the Judicial Magistrate Court at Alandur and to quash the same.

2 Heard Mr. V. Ayyadurai, learned counsel for the petitioner, Mr. C. Emalias, learned Additional Public Prosecutor appearing for the first respondent-State and Dr. A. Thyagarajan, learned Senior Counsel appearing for the second respondent.

3 For the sake of convenience, the parties will be referred to by their name.

4 It is seen that Suram Jayachandra Prasad (hereinafter referred to as "Jayachandran") lodged a complaint with the respondent police on 28.08.2012 and since police did not take any action, he filed CrI.O.P. No.28480 of 2012 for a direction to the respondent police to register an FIR, pursuant to which, the respondent police registered a case in W-32 All Women Police Station Crime No. 3 of 2014 and after completing the investigation, has filed a final report in C.C. No.209 of 2015 for offences u/s 120B, 389, 406, 420 and 506(I) IPC against Pallikonda Srividya (hereinafter referred to as "Srividya") and two others, challenging which, the accused have preferred this Criminal Original Petition.

5 Mr. Ayyadurai, learned counsel for Srividya submitted that the entire prosecution is misconceived, inasmuch as, it has been initiated as a counterblast for the various cases that have been filed by Srividya against her husband Suram Ravi (hereinafter referred to as "Ravi").

6 It is the case of the prosecution that Srividya got married to Ravi on 26.08.2007 and thereafter, they were living in the U.S.A.; Ravi had opened an account with ICICI Bank, in which, he has been depositing money and had authorised his wife Srividya to operate that account and while they were living in the U.S.A., their marriage ran into rough weather. It is the further case of the prosecution that Srividya came to India on 06.06.2012 and that she had withdrawn a sum of Rs.25,86,000/- from the ICICI Bank a/c for good. The further case of the prosecution is that Ravi had authorised Srividya to withdraw the amount for purchasing a property in Chennai and in the guise of that, Srividya has withdrawn money and has neither purchased any property nor returned the amount to Ravi.

7 Mr. Ayyadurai, learned counsel for Srividya would submit that there is no material whatsoever to show that the sum of Rs.25,86,000/- was withdrawn on 06.06.2012, as alleged by the prosecution.

8 Per contra, Dr. A. Thyagarajan, learned Senior Counsel appearing for Jayachandran, brought to the notice of this Court, the statement of account of ICICI Bank, to show that on 13.07.2012, sums of Rs.3,00,000/- and Rs.21,61,000/- have been withdrawn and on 19.07.2012, a sum of Rs.1,25,000/- has been withdrawn, thus, totally aggregating to Rs.25,86,000/- and only thereafter, Srividya has launched various criminal prosecutions against Jayachandran, her father-in-law and Ravi and his other family members in courts of Andhra Pradesh.

9 It is seen that the police have recorded the statement of one Vijayakumar, Manager of ICICI Bank, who had handed over the statement of account to the police, which forms part and parcel of the case records. Thus, there are prima facie materials to show that a sum of Rs.25,86,000/- has been withdrawn by Srividya.

10 It is the contention of Mr. Ayyadurai, learned counsel for Srividya that the aforeasaid sum was withdrawn by Srividya only on the instructions of her husband Ravi and on account of the marital relationship subsisting between Srividya and Ravi, the same cannot be said to be an offence.

11 At the first blush, the argument of Mr.V.Ayyadurai, did appear to be convincing. But, on a closer scrutiny of the facts and circumstances of the case, it is seen that Srividya returned to India on 06.06.2012 and on 13.07.2012 and 19.07.2012, she has made huge withdrawals of cash, as stated above and thereafter, she has started filing cases against Jayachandran, Ravi and their other family members in Andhra Pradesh.

12 This conduct of Srividya does arise suspicion in the mind of this Court, which is relevant under Section 8 of the Evidence Act. That apart, it is alleged in the charge that on 07.06.2012, Srividya came with her parents to the house of Jayachandran (her father-in-law) and threatened him.

13 In the considered opinion of this Court, disputed questions of fact cannot be gone into in an application under Section 482 Cr.P.C. and the matter should be left to be decided only during trial.

In the result, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

cad

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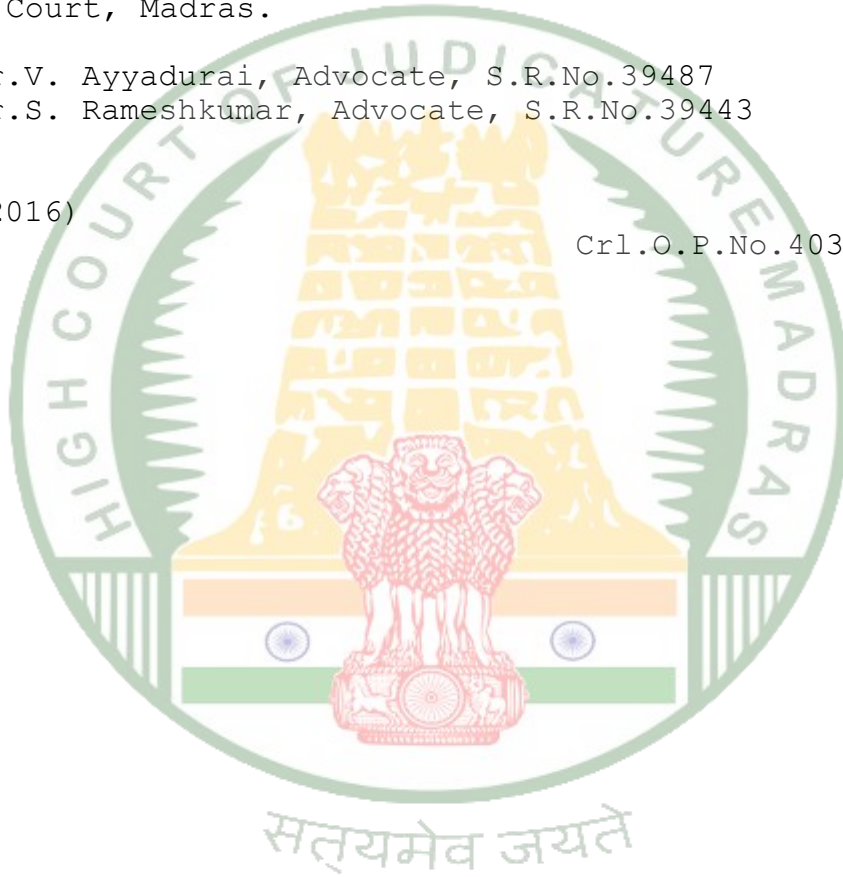
1 The Inspector of Police
All Women Police Station (W-32)
Madipakkam
Chennai 600 091

2 The Public Prosecutor
High Court, Madras.

+1cc to Mr.V. Ayyadurai, Advocate, S.R.No.39487
+1cc to Mr.S. Rameshkumar, Advocate, S.R.No.39443

GJ(CO)
EU(01/08/2016)

Cr1.O.P.No.4033 of 2016



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