

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Cr1.O.P.No.4149 of 2016

B.Kowsalya

... Petitioner

Vs

1.T.Dhanagopal

2.S.Thangavel

3.Balakannika

4.State represented by
The Sub Inspector of Police,
Kottur Police Station,
Pollachi Taluk,
Coimbatore District.

5.The District Collector,
Coimbatore,
Coimbatore District.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the District Magistrate / District Collector, Coimbatore District, to appoint Mr.B.Mohan, Bhavani, Senior Advocate as desired by the petitioner / victim for conducting the prosecution in S.C.No.2 of 2015 on the file of the learned District Sessions Judge, Coimbatore, by appreciating the above stated facts and circumstances.

For Petitioner : Mr.S.P.Yuvaraj

For Respondents : Mr.C.Veeraraghavan,
for R1 and R2

Mr.C.Emalias,
Addl. Public Prosecutor,
for R4 and R5

ORDER

The present criminal original petition has been filed seeking a direction to the District Magistrate / District Collector, Coimbatore District, to appoint Mr.B.Mohan, Bhavani, Senior Advocate as desired by the petitioner / victim for conducting the prosecution in S.C.No.2 of 2015 on the file of the learned District and Sessions Judge, Coimbatore.

2. It is the case of the petitioner that she lodged a complaint as against the respondents 1 to 3 before the fourth respondent police on 2.2.2013 and based on the said complaint, a case was registered in Crime No.59 of 2013 for the offences under Sections 498(A), 494, 495, 496, 417 and 506(ii) I.P.C. In the said criminal case, after completion of investigation, charge sheet was filed before the learned Judicial Magistrate No.II, Pollachi, and the same was taken on file as C.C.No.59 of 2013 under Sections 498(A), 494, 495, 496, 417 and 506(ii) I.P.C. and Sections 3(i)(x) and 3(2)(v) of SC/ST (PA) Act, 1989. Subsequently, the said case was committed to the learned District and Sessions Judge, Coimbatore, and numbered as S.C.No.2 of 2015. The petitioner being the victim of the atrocity, is entitled to engage a senior advocate of her choice for conducting the said case. Under Rule 4(5) of SC/ST (P&A) Rules, 1995, she is entitled for engaging a special public prosecutor. In this case, the petitioner desires to engage Mr.B.Mohan, senior advocate, Bhavani, to conduct the case. Hence, she sent a representation to the District Collector, Coimbatore, on 25.3.2013 to appoint an Advocate as desired by her for conducting the said case. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present petition.

3. It is the main submission of the learned counsel appearing for the petitioner that as per Rule 4(5) of SC/ST (P&A) Rules, 1995, the petitioner is entitled for engaging a special public prosecutor. Hence, she sent a representation to the fifth respondent / District Collector, Coimbatore, on 25.3.2013 to appoint Mr.B.Mohan, senior advocate, Bhavani, to conduct her case. But, till date, the same was not considered by the fifth respondent.

4. Learned Additional Public Prosecutor, after proper verification, submitted that the said representation is pending before the fifth respondent.

5. Considering the above facts and circumstances, this Court directs the fifth respondent / District Collector, Coimbatore, to consider the representation of the petitioner dated 25.3.2013 seeking to appoint Mr.B.Mohan, senior advocate, Bhavani, to conduct her case and make it sure that an advocate

is appointed for assisting the petitioner to get along with the case in S.C.No.2 of 2015 pending on the file of the learned District and Sessions Judge, Coimbatore. The said exercise shall be completed by the fifth respondent within a period of three weeks from the date of receipt of a copy of this order. The criminal original petition is disposed of accordingly.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sbi

To

1. The District and Sessions Judge,
Coimbatore.
- 2.The Sub Inspector of Police,
Kottur Police Station,
Pollachi Taluk,
Coimbatore District.
- 3.The District Collector,
Coimbatore,
Coimbatore District.
- 4.Mr.B.Mohan, Senior Advocate, Bharani.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

Cr1.O.P.No.4149 of 2016

kj (co)
ss (24/01/2017)

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