



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2016

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

Crl.O.P. (MD) .No.12368 of 2016

T.Manonmani

.. Petitioner

Vs.

The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District
Crime No.412 of 1988

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the Judicial Magistrate, Padmanabhapuram to furnish the certified copy of an affidavit of first wife of the petitioner's husband which is marked as defence side exhibit No.1 in A.No.427 of 2016 dated 21.04.2016 in CC.No.513 of 1989 in accordance with law within the stipulated time.

For Petitioner

: M/s.Dhana Law Associates

For Respondent

: Mr.A.P.Balasubramani,
Government Advocate
(Criminal side)

ORDER

It is an application seeking a direction to the Judicial Magistrate, Padmanabhapuram to furnish certified copy of an affidavit of the first wife of the petitioner's husband, which is marked as defence side Exhibit No.1 in A.No.427 of 2016 dated 21.04.2016 in C.C.No.513 of 1989.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent.

3.The petitioner is the wife of one Thangaraj who is the first accused in C.C.No.513 of 1989. The petitioner filed a third party copy application in Application No.427 of 2016 dated 21.04.2016 in C.C.No.513 of 1989. The petitioner is praying for issuance of a certified copy of the affidavit filed by the first wife of the petitioner's husband, which is marked as defence side Ex.No.1.



4.It is submitted that no orders have been passed in the copy application either granting the copy or rejecting the copy application. It is stated that the petitioner had applied legal heir certificate on 09.02.2015 before the Tahsildar, Kalkulam, which has been rejected on 01.02.2016 on the ground that the petitioner's husband had two wives and the petitioner had not produced the decree of divorce between the petitioner's husband and his first wife. In order to show that there had been divorce between the first wife and the petitioner's husband, the copy of the affidavit is sought for. The petitioner's husband died on 18.06.2014. Thereafter, the petitioner has made an application before the Government authority seeking for retirement benefits of her husband and the petitioner's daughter had applied for compassionate appointment.

5.It is stated that all the applications are rejected only on the ground that there is no proof to show that the husband of the petitioner had divorced his first wife. It is alleged that in the affidavit filed by the first wife it is stated that that there was a customary divorce between the petitioner's husband and first wife.

6.Under such circumstances, when satisfactory reasons have been given as to why the copy application should be granted to the petitioner, the Court should have granted the copy application to the petitioner. Non granting of the copy of the affidavit for a period of three months amounts to rejection of the claim of the petitioner.

7.Under such circumstances, the Judicial Magistrate, Padmanabhapuram is directed to furnish a copy of the affidavit of the first wife of the petitioner's husband marked as Ex.No.1 in application No.427 of 2016 within a period of one week from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate, Padmanabhapuram.

2.The Inspector of Police,

Thiruvattar Police Station, Kanyakumari District

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+One cc to Mr.J.Senthil Kumaraiah, Advocate, SR.No.38543