



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.6879 of 2016

WEB COPY

Annapoorani

... Petitioner

vs.

1.The Superintendent of Police
Dindigul District, Dindigul

2.The Inspector of Police
All Women Police Station
Dindigul, Dindigul District

... Respondents

PRAYER: This petition is filed under Section 482 Cr.P.C., to direct the respondents to conduct further investigation in Crime No.24 of 2015, on the file of the second respondent and file charge sheet afresh in C.C.No.37 of 2016, on the file of the learned Judicial Magistrate No.II, Dindigul, as against all the accused arrayed in the first information report in appropriate penal provision and in accordance with law.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mrs.S.Prabha, G.A.(Crl.Side)

O R D E R

The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking direction upon the respondents to conduct further investigation in Crime No.24 of 2015, on the file of the second respondent, and file a fresh charge sheet in C.C.No.37 of 2016, on the file of the learned Judicial Magistrate No.II, Dindigul, as against all the accused, in accordance with law.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondents.

3. It is seen that on the complaint lodged by the petitioner, the respondent Police registered a case in Crime No.24 of 2015 on 19.08.2015, for the offences under Sections 498(A), 406, 323 and 506(i) I.P.C., as against her husband Sriram Ranjithbabu and his family members Vijaya, Mukeshbabu, Ramesh Babu, Pandiammal and Divyapandi and after completion of investigation, the respondent Police have filed a final report, in C.C.No.37 of 2016, before the learned Judicial Magistrate No.II, Dindigul, only as against Sriram Ranjithbabu / first accused and Divyapandi / sixth accused and left out the others.

4. It is a settled proposition of law that if persons, who are named in the F.I.R., are deleted in the final report, an opportunity should be given to the *de facto* complainant to file protest application. Unfortunately, in this case such an opportunity has not been given to the petitioner / *de facto* complainant and hence the order of the learned Judicial Magistrate No.II, Dindigul, taking cognizance of the offence without issuing notice to the petitioner / *de facto* complainant suffers



from infirmity in the light of the fact that out of six accused named in the F.I.R., only two of them have been arrayed as accused in the final report. Under such circumstances, the order of the learned Judicial Magistrate No.II, Dindigul, taking cognizance is set aside and the petitioner / *de facto* complainant is directed to file a protest application before the learned Judicial Magistrate No.II, Dindigul, within a period of two weeks from the date of receipt of a copy of this Order, failing which she will loose her opportunity. However, while passing orders in the protest application, the learned Judicial Magistrate No.II, Dindigul, shall bear in mind that in matrimonial offences there is a tendency of complainant trying to rope-in the entire family members of the husband, which fact has been observed by the Honourable Supreme Court in *Arnesh Kumar v. State of Bihar and another*, reported in 2014 (3) MLJ (Cr1) 353 (SC). Sometimes it happens that due to such complaints, the family members, who are in the verge of getting public employment, will get entangled in prosecution and will loose their entire career. Therefore, all these facts should be borne in mind before making a person as accused in a criminal case. Therefore, this Court directs the learned Judicial Magistrate No.II, Dindigul, to pass appropriate orders on the protest application keeping in mind the aforesaid dictum of the Apex Court.

5. With the above observations, this criminal original petition is disposed of.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.II,
Dindigul.

2.-do-thro'The Chief Judicial Magistrate,
Dindigul.

3.The Superintendent of Police,
Dindigul District, Dindigul.

4.The Inspector of Police,
All Women Police Station,
Dindigul, Dindigul District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.D.Shanmugaraja Sethupathi, Advocate in SR.24035

Cr1.OP (MD) No.6879 of 2016
26.04.2016

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