

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.8485 of 2017
and
Crl.M.P.No.6062 of 2017

S.Balu ... Petitioner

Vs.

1.The State Rep. by
Inspector of Police,
District Crime Brach,
Cuddalore District.

2.Malarvizhi
District Registrar (Admin),
District Registrar Office,
No.50, Sankaran Naidu Street,
Thiruppapuliur,
Cuddalore District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the Crime No.6 of 2016 on the file of respondent police and quash the same.

For Petitioner : Mr.R.Kumaravel

For Respondent 1 : Mr.C.Iyyapparaj
Additional Public Prosecutor.

For Respondent 2 :No appearance

O R D E R

The prayer sought for in this petition is to call for the records pertaining to the Crime No.6 of 2016 on the file of respondent police and quash the same.

2. The case of the prosecution is that one Prabu had Registered his marriage with one Uma Maheswari on 17.06.2009 under the Marriage Certificate No.660/2009, before the District Registrar Office, Cuddalore. Subsequently, the name under the Marriage Certificate No.660/2009 was found to have been changed

to the name of Aravind and Ananthi. Hence, after the de-facto complainant had conducted an enquiry with the staffs and contract employee, found that the petitioner along with two other accused had indulged in forgery by changing the names in the register and in the computer data. Accordingly, the offences under Sections 409, 465, 468, 471, and 420 IPC, came to be registered against the petitioner and others. Challenging the same the present Criminal Original Petition has been filed .

3. Mr.R.Kumaravel, the learned counsel for the petitioner submitted that the complaint is falsely motivated and baseless. According to the learned counsel for the petitioner the incident which took place in the year 2011, came to be registered only on 23.06.2016 after a lapse of about 5 years. He attributed motive on the part of the second respondent stating that pursuant to the incident, departmental proceedings was initiated against him in the year 2012 and since there was inordinate delay to complete the departmental proceedings he had filed a writ petition and in W.P.No.15433 of 2016 and by an order dated 26.04.2016, the proceedings was directed to be concluded within a period of two months. After the High Court had passed the order, he had approached this High Court and filed the present complaint.

4. The learned counsel for the petitioner submitted that the averments are very vague as against this petitioner and therefore, since no offences has been made, the proceedings are liable to be quashed. It is also pointed that based on the departmental proceedings the petitioner was not permitted to retire from service from 29.02.2012 onwards.

5. The learned Additional Public Prosecutor on the other hand objected to the submissions made and submitted that the investigation is pending. According to him the complaint reveals in two places about the involvement of one Dark Tall Man, who was later found to be the petitioner herein at the time of investigation. The learned Additional Public Prosecutor by referring to the overt acts attributed therein, submitted that the offence has been made out clearly against the petitioner.

6. I have carefully considered the submissions made by the learned counsel for the first respondent. The motive attributed by the learned counsel for the petitioner, though cannot be straight away accepted in toto, but raises a serious doubt as to whether such an offence could have been committed since there is explanation for the delay of almost four years for giving a complaint against the petitioner. It is not the case of the second respondent that they were not aware of the incident. On the other hand, in connection with the same incident the

departmental proceedings were also initiated against the petitioner and the same was pending. Therefore, there was every likelihood that the criminal complaint could have been made after the petitioner had approached this Court, complaining about the delay in concluding the proceedings and seeking for expeditious disposal of the departmental proceedings.

7. From the averments made in the complaint, it is seen that the reference to the petitioner has been made by referring him as a Dark Tall Man. From the counter affidavit, it is seen that the petitioner was identified based on 7 witnesses and after recording their statements. Among the 7 witnesses, 5 witnesses have already been examined in the Departmental enquiry and all of them had not given any adverse remarks about the petitioner and accordingly he was exonerated and the departmental enquiry, as against the petitioner, in connection with this incident came to be closed.

8. In this back ground when the complaint was perused, it is seen that none of the offences mentioned in the FIR can be implicated against the petitioner. While that being so, I am unable to comprehend as to how the petitioner can be made liable or charge sheeted for the same. Apart from this, the inordinate delay in approaching the first respondent police by the second respondent would also be fatal to the investigation.

9. Moreover, the complaint that was given on 23.06.2016 is still in the stage of investigation and this unexplained delay also would be in favour of the petitioner for the purpose of considering the present petition. I do not find any reason as to why the petitioner should be made to undergo the ordeal of investigation, pending for about six years.

10. In the result, Criminal Original Petition stands allowed the investigation in Cr.No.6 of 2016 on the file of the first respondent police is quashed, in so far as this petitioner is concerned. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

nmm

To

1.The State Rep. by
Inspector of Police,
District Crime Brach,
Cuddalore District.

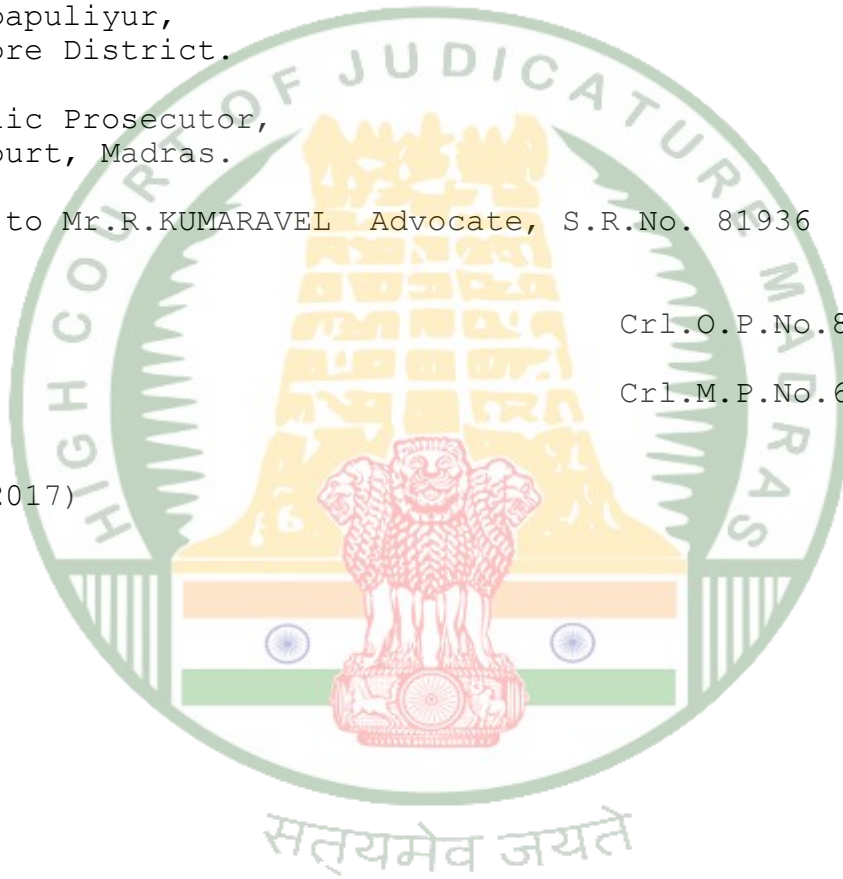
2.Malarvizhi
District Registrar (Admin),
District Registrar Office,
No.50, Sankaran Naidu Street,
Thiruppapuliyur,
Cuddalore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.KUMARAVEL Advocate, S.R.No. 81936

Cr1.O.P.No.8485 of 2017
and
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SK (CO)
TR(22/11/2017)



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