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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Thursday, the Twentieth day of April Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) No.2378 of 2017
IN
CRL OP(MD) No.15858 of 2014

NAGANANDHINI ... PETITIONER/2nd RESPONDENT

Vs

1 MICHEAL RAJ ..1st RESPONDENT/PETITIONER

2 STATE REP BY THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION MADURAI DISTRICT
...2nd RESPONDENT/1st RESPONDENT

PRAYER: Petition filed under Section 482 of Cr.P.C praying this Hon'ble Court to recall the order dated 22/08/2014 passed in Crl.O.P(MD).No.15858/2014 and re-open the Criminal Original Petition pursuant to the complaint of the petitioner dated 27/02/2017.

Prayer in CRL OP(MD). 15858/ 2014 :

Petition filed under Section 482 of Cr.P.C praying to call for the records relating to the FIR in Cr.NO.17/2013 on the file of the 1st respondent police and quash the same as the matter is amicably settled between parties.

Order : This petition coming on for orders on this day and upon perusing the petition and upon hearing the arguments of Mr. J. ANANDAKUMAR, Advocate for the petitioner and of Mr.K.Anbarasan, Government Advocate(Crl.side) for the 2nd respondent and of Mr.K.Mani, Advocate for the 1st respondent the court made the following order:-

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

2. It is the case of Naganandini that Micheal Raj deflowered her on the promise of marrying her and, thereafter, reneged. Therefore, on the complaint given by Naganandini, a case in crime No.17 of 2013 was registered against Micheal Raj for offences under Sections 417 and 376 of the Indian Penal Code. During the pendency of investigation in Crime No.17 of 2013, Micheal Raj got married to Naganandini and their marriage was registered on 30.07.2014 before the Marriage Officer for Special Marriage, District Registrar Office, Madurai (South). Thereafter, Micheal Raj and Naganandini

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filed an application for quashing the case in Crime No.17 of 2013 on the ground that they have arrived at a compromise. Based on the joint compromise memo, this Court passed the following order in Crl.O.P.(MD)No.15858 of 2014 on 22.08.2014:

"4. A joint memo was signed by both parties and countersigned by both the Counsels has been filed before this Court confirming the marriage and also the fact that the petitioner is living with the second respondent.

4. In view of that no useful purpose will be achieved for further proceeding in the above matter and the F.I.R. is quashed. It is made clear that in case if the petitioner deserts the second respondent, the second respondent is at liberty to move this Court for modification of order.

6. With the above direction, the Criminal Original Petition is allowed."

Through their marriage, they have one daughter, by name Jerline Mercy Grace. Since differences cropped up between Micheal Raj and Naganandini, they got estranged. Therefore, Naganandini has filed the present Miscellaneous Petition in Crl.M.P.(MD)No.2378 of 2017 in Crl.O.P.(MD)No.15858 of 2014, to recall the order dated 22.08.2014 passed in Crl.O.P.(MD)No.15858 of 2014 and re-open the Criminal Original Petition, pursuant to the complaint of Naganandini, dated 27.02.2017.

3. Heard Mr.J.Anandkumar, learned counsel appearing for Naganandini, Mr.K.Mani, learned counsel appearing for Micheal Raj and Mr.K.Anbarasan, learned Government Advocate (Criminal side) appearing for the State.

4. Today, Micheal Raj and Naganandini are present.

5. Micheal Raj has filed a counter-affidavit, wherein, in paragraph Nos.6,7,8 and 9, he has stated as follows:

"6. I most respectfully submit that thereafter, I went to my parent's house at Karaikudi and continued my work as an acting driver and sent money to the petitioner at the petitioner's father Bank Account, and many times met the petitioner at Madurai and gave money directly for expenses. In such a situation, there was an eye surgery conducted to our child "Jerline Mercy", at that time, I gave Rs.15,000/- for surgery.

7. I most respectfully submit that thereafter, after surgery, I again requested the petitioner to come with me at Karaikudi but the petitioner adamantly refused.

8. I most respectfully submit that all of a sudden, the petitioner contacted me through mobile phone and expressed her intention that "Many dispute was arise between ourselves, if we again join in our life, the life would not be fruitful and tasty. I don't need you, give me sum huge amount as settlement for me and my child". Thereafter also, I again said that "I take a separate house at Karaikudi, please come with me along with our child, but the petitioner adamantly again denied.

9. I most respectfully submit that still now, I never deserted my wife, even though, they beated and harassed me at petitioner's house by their family members, still now, I take care of my child and my wife and discharging my duties from outside within my

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capacity. But now also the petitioner expects only huge amount from me and wishes to marry a another men, somanytimes, the petitioner expressed her intention openly."

6. From a conspectus of the facts obtaining in this case, this Court is of the view that some irreconcilable differences have cropped up now between Micheal Raj and Naganandini, on account of which, they are now at loggerheads. This cannot be a good reason to recall the order dated 22.08.2014 and force both of them to live together under one roof, how much ever desirable it may be. However, this Court directed Micheal Raj to pay maintenance for the child. On the directions of this Court, Micheal Raj has given an undertaking affidavit, wherein, in paragraph No.1, it is stated as follows:

"1. I most respectfully submit that, I do here by undertake to give money Rs.8,000/- per month as maintenance to the petitioner and her child through the Bank Account No.335102010910180 at Union Bank of India, Town Hall Road Branch as per the order of this Hon'ble High Court."

7. In view of the above, Micheal Raj is directed to comply with the undertaking given above, until appropriate orders are passed by the matrimonial Courts with regard to the dispute between the parties. If, in the meantime, they arrive at a compromise and start living together, it may not be necessary for Micheal Raj to pay Rs.8,000/- (Rupees Eight Thousand only), as undertaken by him above.

8. With the above directions, this Miscellaneous Petition is closed.

Sd/-
ASSISTANT REGISTRAR(RTI)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

TO
1.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION MADURAI TOWN , MADURAI.

2.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S. J. ANANDKUMAR Advocate SR.No.52972
+1 cc to Mr.K.Mani, Advocate, Sr No.53500

ORDER DATED :20/04/2017

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ORDER

given direction etc., as stated within.

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