



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.3806 of 2017

AND

CRL.M.P.(MD).No.2803 of 2017

1.Sarab

2.Beema ... Petitioners/Respondents 2 & 3

-vs-

Fathima ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order passed in C.C.No.302 of 2015 on the file of the Judicial Magistrate, NO.I, Kuzhithurai dated 17.10.2016 as against these petitioners.

For Petitioner : Mr.R.Manimaran

O R D E R

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

2. Fathima Beevi has filed a private complaint in CMP No.5621/2011 before the Judicial Magistrate, which was referred to the police under Section 156(3) Cr.P.C. Pursuant to which, the Inspector of Police, All Women Police Station, Kuzhithurai registered a case in Crime No.17/2011 and after completing the investigation, filed a chargesheet in C.C.No.227/2014 before the Judicial Magistrate, No.I, Kuzhithurai only against one accused. According to Fathima Beevi, the police had left out Yusuf, Sarab and Beema from the chargesheet and therefore, she filed a private complaint in C.C.No.302/2015 before the Judicial Magistrate, NO.I, Kuzhithurai against Yusuf, Sarab and Beema for offences under Sections 498(A), 415 and 406 IPC. After recording the statement of witnesses, the learned Judicial Magistrate, No.I, Kuzhithurai took cognizance of the offences under Sections 498(A), 406 IPC and Sections 3 and 4 of the Dowry Prohibition Act and by order dated 26.10.2015, issued process to Sarab and Beema for their appearance



on 17.11.2015. Ultimately, on 17.10.2016, the Judicial Magistrate, No.I, Kuzhithurai has passed the following order:

"17.10.2016

Complainant absent. Petition filed and allowed summon was unclaimed by the all accused. Hence, issue NBW against the all accused C/o.09.01.2017."

3. Aggrieved by the order, Sarab and Beema are before this Court. In normal circumstances, this Court would not have entertained this petition for recall of warrant, as there is a remedy provided under Section 70(2) of the Code of Criminal Procedure. However, it is seen that already a police chargesheet is pending in C.C.No.227/2014 against the husband of Fathima Beevi and these petitioners are the in-laws of Fathima Beevi. That apart, the non bailable warrant has been issued on the ground that the petitioners/accused had failed to claim the summons.

4. In view of the above, this Court directs the petitioners to surrender before the Judicial Magistrate, No.I, Kuzhithurai within a period of two weeks from the date of receipt of a copy of this order and on such surrender, they shall be released on bail under Section 436 Cr.P.C. on the same day on their executing a bond for Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, NO.I, Kuzhithurai. If they abscond, a fresh FIR can be registered against them under Section 229(A) of the Indian Penal Code.

5. With the above direction, this criminal original petition is disposed of. Consequently connected Miscellaneous Petition is closed.

SD/-

ASSISTANT REGISTRAR(CS-III)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To:

1. The Judicial Magistrate, NO.I, Kuzhithurai

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

+1 CC TO M/S.R.MANIMARAN,ADVOCATE,SR NO.19126

RR

MAS/MR:19.04.2017:2P-4C