

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.07.2018
Pronounced on : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.12946 of 2011
and
M.P.No.1 of 2011

A.Gunaseelan,
S/o.K.Allimuthu.

... Petitioner/Accused

/Vs./

1.The Sub Inspector of Police,
All Women Police Station,
Tindivanam,
Villupuram District.
(Ref: Crime No.11/2010
dated 18.11.2010)

... Respondent/
Complainant

2.Ayyammal,
D/o.Arumugam.

... Respondent/Defacto-
Complainant

[Second respondent is impleaded as
per order in Cr1.M.P.No.5818 of
2018 in Cr1.O.P.No.12946 of 2011
dated 13.07.2018.]

PRAYER: Criminal Original Petition is filed under Section 482
of the Code of Criminal Procedure, to call for the records in
C.C.No.13 of 2011 on the file of the Judicial Magistrate Court
No.1, Tindivanam, quash all further proceedings as against the
petitioner herein.

For Petitioner : Mr.A.Ramalingam
For R1 : Ms.V.Saratha Devi,
Government Advocate

For R2 : Ms.G.V.Shoba

O R D E R

The petitioner, who is the accused in C.C.No.13 of 2011
pending on the file of the Judicial Magistrate Court No.I,
Tindivanam for the offence under Section 498(A) has filed the

above quash petition.

2.The 1st respondent is the Inspector of Police had investigated and filed the charge sheet. The 2nd respondent is the defacto complainant.

3.The case of the prosecution is that the petitioner had love affair with the 2nd respondent from the year 2004. During this period, they had physical relationship, due to which the defacto complainant got conceived and became pregnant. Thereafter, on the intervention of the family members of the petitioner and the 2nd respondent, on 20.03.2006 marriage ceremony was conducted at Lakshmi Narasimhan Temple Tindivanam. At that time, the petitioner was a student doing ITI course and it was decided that on completion of the course which would take two years thereafter the petitioner and the 2nd respondent could have their matrimonial home till such time the 2nd respondent was left with her parents house. A boy baby was born due that pregnancy, despite, the petitioner completing the course, the petitioner failed to take back the 2nd respondent as his wife. The above said action of the petitioner subjected the 2nd respondent to cruelty for which the 2nd respondent gave a complaint, based on which the 1st respondent registered a case and on completion of investigation filed a charge sheet against the petitioner.

4.The contention of the learned counsel for the petitioner is that on the averments in the charge sheet, there is no case made out for the offence under Section 498(A). The petitioner though, admits that he had married the 2nd respondent mere refusal to live with the 2nd respondent after marriage would not constitute an offence under Section 498(A) and not living with the wife would not amount to cruelty. Further submits that the matrimonial dispute has been transformed into a criminal case under Section 498(A) of the Indian Penal Code and sought quashing of the charge sheet.

5.The learned Government Advocate [Crl. Side] submits that on the complaint of the 2nd respondent the respondent police registered a case conducted a thorough enquiry and collected materials and evidences, recorded the statement of six witnesses including the victim/2nd respondent and filed a final charge sheet against the petitioner.

6.The contention of the learned counsel for the 2nd respondent is that the petitioner taking advantage of the young and adolescence age of the 2nd respondent had physical relationship with her made her pregnant and she had given birth

to a male child. The petitioner's father, who is employed in the Revenue Department using his clout had successfully thwarted all steps taken by the 2nd respondent to reconcile the marriage and to live with the petitioner. The above case came to be registered only after sustained persuasion and representation made to the Collector, Superintendent of Police and other Officials, thereafter only the 1st respondent had registered the complaint. With great difficulty and with sustained perseverance the charge sheet came to be filed against the petitioner. The petitioner being the father of the child and due to the adamant attitude of the petitioner, the child's parentage has become questionable. The 2nd respondent has lost her life and for the sake of the child despite the harassment and cruel acts of the petitioner she is alive and leading a pitiable life, prayed that the quash petition to be dismissed.

7. On considering the submission of the petitioner, the learned Government Advocate [Crl. Side] and the counsel for the 2nd respondent and on perusal of the charge sheet, on the materials available, this court finds that the contention of the petitioner does not merit any consideration.

8. In view of the above the quash petition filed by the petitioner is dismissed and accordingly this Criminal Original Petition stands dismissed, since the case is pending from the year 2011. The Trial Court is directed to complete the trial expeditiously within a period of six months from the date of receipt of the copy of this order. Consequently, the connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Judicial Magistrate No.1,
Tindivanam.
2. The Sub Inspector of Police,
All Women Police Station,
Tindivanam,
Villupuram District.

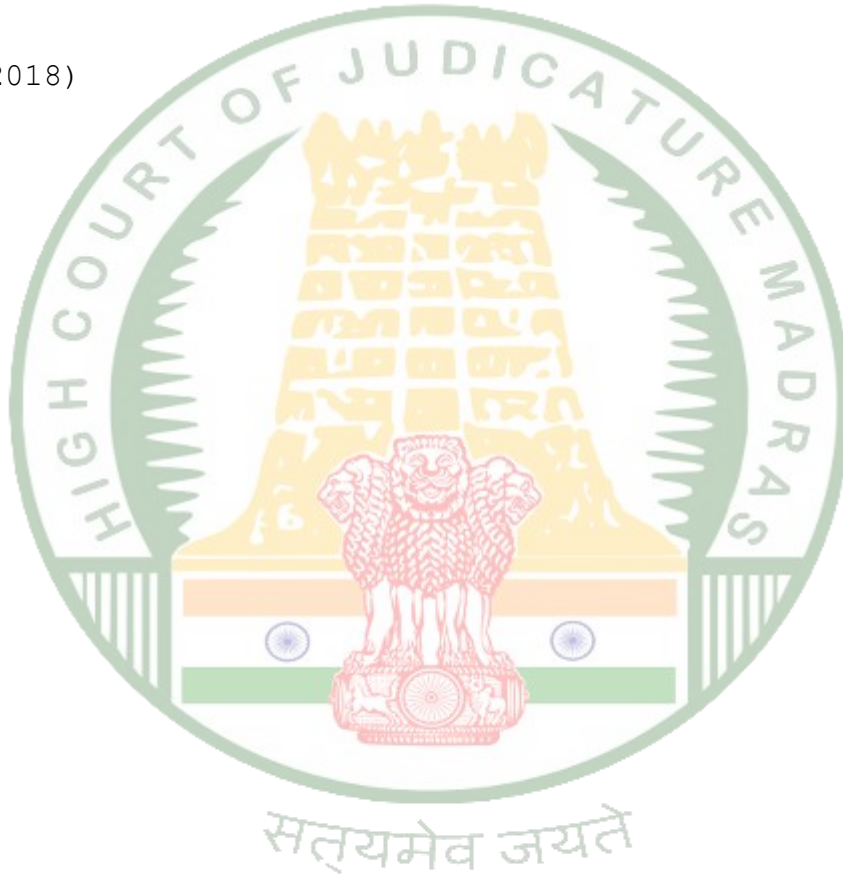
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3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.A. Pandiyan, Advocate sr 71043.
+1 CC to Mr.R. Augustina, Advocate sr 71266.

Cr1.O.P.No.12946 of 2011

SP(30/10/2018)



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