

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.12548 of 2018

and

Crl.MP.Nos.6728 & 6729 of 2018

1. P.Varatharajan
2. Mohanavalli
3. Thilaga @ Thilagavathy
4. Murali

.. Petitioners

Vs

- 1.State of Tamil Nadu
By its Inspector of Police
Kunnathur Police Station
Tirupur District
(Crime No.293 of 2016)

- 2.C.Latha

.... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to proceedings in C.C.No.188 of 2016 on the file of the Judicial Magistrate, Avinashi and quash the same.

For Petitioners : Mr.A.V.Arun

For Respondents : Mr.C.Raghavan
Government Advocate (Crl. Side)

O R D E R

When this Court was about to dismiss this petition on merits and since there are prima facie materials for framing charges, the learned counsel for the petitioners sought permission of this Court to withdraw the same and has also made an endorsement to that effect.

2. In view of the endorsement made by the learned counsel for the petitioners, this petition is dismissed as withdrawn with liberty to the petitioners to raise all the points before the trial Court.

3. However, the learned counsel for the petitioners submitted that the dispute is essentially a matrimonial dispute and there is every possibility of the parties arriving at a settlement, if the matter is referred to Mediation Centre.

4. Accepting the said submission, the learned Judicial Magistrate, Avinashi, is directed to send the accused and the de-facto complainant to the local Mediation Centre for arriving at an amicable settlement. In the guise of pendency of the Mediation Proceedings, trial can be stalled indefinitely. Therefore, Mediation Proceedings shall be completed within a period of three months from the reference by the Judicial Magistrate, Avinashi to the local Mediation Centre. Until then, the presence of the petitioners/accused before the Trial Court is dispensed with.

5. The petitioners/accused 2 & 3 shall appear before the trial Court for receiving the charge sheet, for framing charge under Section 251 Cr.PC, at the time of questioning under Section 313 Cr.P.C. and at the time of passing judgment. For the other hearings, the petitioners/accused 2 & 3 shall file a petition before the trial Court under Section 317 Cr.PC., giving an undertaking that they will not dispute their identity and that the counsel named by them in the affidavit will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288]. On such a petition being filed, the trial Court may liberally consider the same. If the accused adopt any dilatory tactics, it is open to the trial Court to insist upon their presence and remand them to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If the accused abscond, the trial Court shall direct registration of an FIR against him under Section 229-A IPC. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

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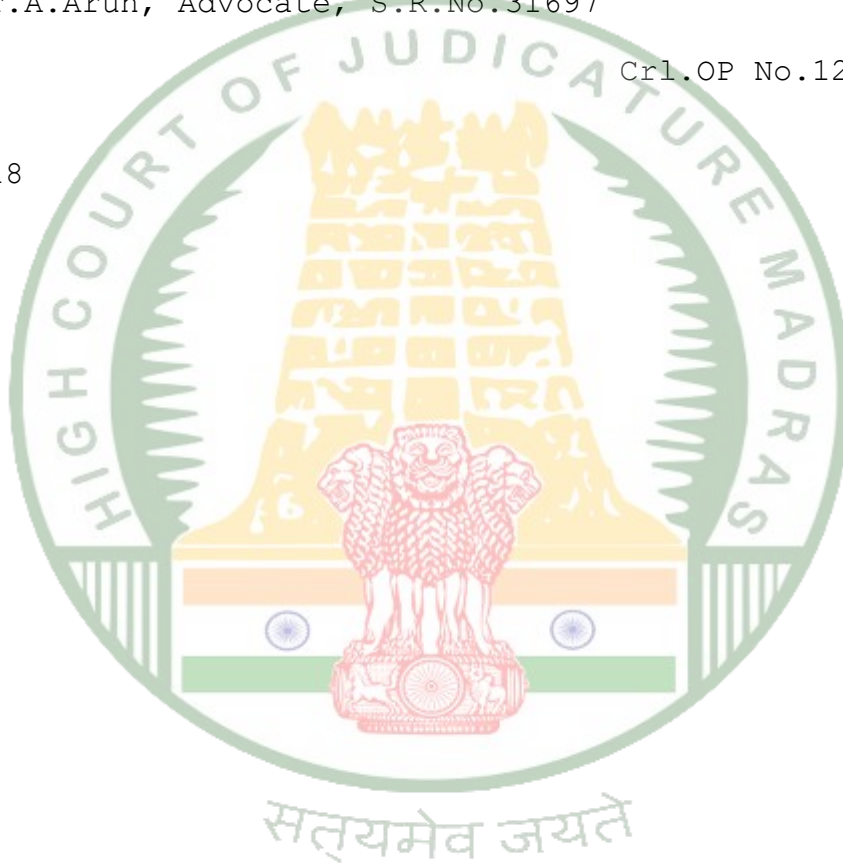
To

1. The Inspector of Police
Kunnathur Police Station
Tirupur District
2. The Government Advocate (Crl. Side)
High Court, Madras.
3. The Judicial Magistrate,
Avinashi.

+1cc to Mr.A.Arun, Advocate, S.R.No.31697

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NA (CO)
CS/07/06/18



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