

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Crl.OP No.2986 of 2018  
and  
Crl.M.P.Nos.1229 & 1230 of 2018

1.S.Sathyannarayana

2.R.Srinivasan

3.Santhi Srinivasan .. Petitioners

Vs.

1.State rep. by  
The Inspector of Police,  
All Women Police Station,  
Poonamallee. ..Respondent/Complainant

2.Sai Priya ..Respondent/Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.160 of 2017 on the file of the learned Judicial Magistrate No.I, Poonamallee and to quash the same.

For Petitioners :Mr.R.Sreerangan

For Respondent-1 :Mrs.P.Kritika Kamal  
Govt. Advocate (Crl. Side)

For Respondent-2 :Mr.Prabaharan

O R D E R

When the matter came up for hearing today, the petitioners are personally present before this Court and identified themselves.

2.Heard the learned counsel for the petitioners as well as the learned counsel for the second respondent and the learned Government Advocate (Crl. Side) for the first respondent.

3.A joint memo of compromise dated 09.12.2017 has been entered into between the first petitioner and the second respondent herein. Both the parties are mutually and amicably resolved the disputes in terms of the said memo of compromise.

When the matter was listed before this Court on 06.02.2018, the following order came to be passed:

"3.Today when the matter was called, the learned counsel for the petitioner produced a Demand Draft No.265467, dated 06.01.2018 for Rs.7,00,000/- (Rupees Seven lakhs only) drawn on State Bank of India, Bhel Mukundarayapuram and submitted that he is willing to hand over the said Demand Draft to the second respondent herein, subject to all the proceedings against him being withdrawn.

4.Since the parties have amicably settled and agreed to resolve the disputes between themselves, it would not be appropriate to make them undergo six months judicial separation period in the proceedings for divorce by mutual consent. The Hon'ble Supreme Court of India, in a recent Judgment in Amardeep Singh Vs Harveen Kaur in Civil Appeal No. 11158 of 2017 dated 12.09.2017, had an occasion to deal with a similar situation. The relevant portion of the said Judgment reads as follows:

`18.Applying the above to the present situation, we are of the view that where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13B(2), it can do so after considering the following:

i)the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself;

ii)all efforts for mediation/conciliation including efforts in terms of Order XXXIIA Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;

iii)the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;

iv)the waiting period will only prolong their agony.

5.As observed by the Hon'ble Supreme Court of India, the statutory period of six months will only prolong the agony between the parties and it would be appropriate to resolve their dispute as expeditiously as possible.

6.Both the counsels submitted that the petitioner has already filed a petition under section 13(B) of the Hindu Marriage Act, 1955 which is yet to be taken on file. Hence, there shall be a direction to the Principal Family court, Chennai to take up the petition filed under section 13 (B) of Hindu Marriage Act, 1955 on file and pass appropriate orders on the same day by recording the memo of compromise dated 09.12.2017 by waiving the statutory period of six months under section 13 B (2). The learned Principal Family Court Judge shall also permit the second respondent herein, to receive the aforesaid Demand Draft for Rs.7,00,000/- (Rupees Seven lakhs only) bearing No. 265467, dated 06.01.2018 drawn on State Bank of India, Bhel Mukundarayapuram, offered by the petitioner herein. Such an exercise shall be made on or before 16.02.2018.

7.The second respondent herein, in the mean time, shall also withdraw the case in M.C.No.27 of 2016 pending before the learned IXth Metropolitan Magistrate, Saidapet. Likewise, the petitioner herein will also withdraw the petition in HMOP No.3622 of 2016 pending on the file of the Principal Family Court, Chennai for restitution of conjugal rights. Apart from these three proceedings, what would be pending is the criminal case in C.C.No.160 of 2017 on the file of the learned Judicial Magistrate No.I, Poonamallee, for which the present quash petition is filed before this Court.

8.There shall also be a direction to the learned IXth Metropolitan Magistrate, Saidapet to permit the second respondent herein, to withdraw the case filed under the Domestic Violence Act in M.C No.27 of 2016, on the same day when such request is made.

9.The petitioners shall also ensure that the criminal complaint given against the second respondent, by his father, is closed.

10.For the purpose of passing a final order in the quash petition, post the matter on 20.02.2018 in the Chambers at 4.30 p.m under the caption "for Reporting settlement".

4.In continuation of the earlier observations made, it is reported today that the first petitioner herein had withdrawn the proceedings in HMOP.No.3622 of 2015 on the file of the

learned Principal Judge, Family Court, Chennai and the proceedings in O.P.No.610 of 2018 before the same Court came to be allowed, dissolving the marriage dated 08.06.2015 solemnized between the first petitioner and the second respondent herein. It is also submitted by both the learned counsel that the proceedings in D.V.C.No.27 of 2016 that was pending before the learned IX Metropolitan Magistrate, Saidapet is also withdrawn by the second respondent herein on 13.02.2018. Likewise, the police complaint filed by the first petitioner against the father of the second respondent herein before the Sub Inspector of Police, R9 Valasaravakkam Police Station, Chennai is also closed at the instance of the first petitioner herein. Both the learned counsel for the parties ratified that all the terms of the memo of compromise dated 09.12.2017 has been performed by both the parties. The learned counsel for the second respondent also submitted that the second respondent had received a sum of Rs.7 lakhs by way of demand draft bearing No.265467 dated 06.02.2018 drawn on Bank of India, BHEL Mukundarayapuram as per the memo of compromise as full and final settlement.

5.In view of the mutual and amicable settlement arrived at between the parties, it would be appropriate to quash the proceedings in C.C.No.160 of 2017 on the file of the learned Judicial Magistrate No.I, Poonamallee which is also one of the terms of the said memo of compromise.

6.In the result, the Criminal Original Petition is allowed. Consequently, the proceedings in C.C.No.160 of 2017 on the file of the learned Judicial Magistrate No.I, Poonamallee stands quashed. The joint memo of compromise dated 09.12.2017 shall form part of the order. Connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS-III)

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//True Copy//

Sub Assistant Registrar

DP

To

1.The Judicial Magistrate No.I,  
Poonamallee.

2.The Inspector of Police,  
All Women Police Station,  
Poonamallee.

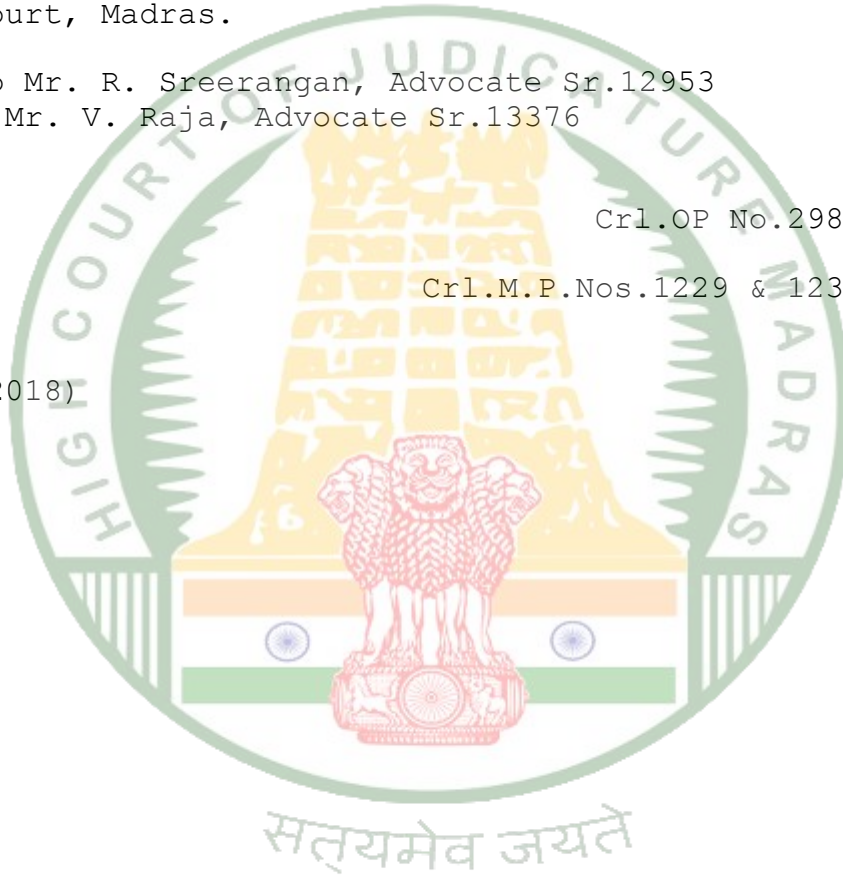
3.The Public Prosecutor,  
High Court, Madras.

+ 2 ccs to Mr. R. Sreerangan, Advocate Sr.12953  
+ 1 cc to Mr. V. Raja, Advocate Sr.13376

Crl.OP No.2986 of 2018  
and

Crl.M.P.Nos.1229 & 1230 of 2018

RR(CO)  
EU(05/03/2018)



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