

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

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

Crl.O.P. No.15294 of 2018

and

Crl.MP.No.7786 of 2018

Agilandeswari

...Petitioner

vs.

1. The State rep. by
The Inspector of Police
All Women Police Station
Sriperumputhur, Kancheepuram District.

2. D.Aruldoss

3. D.Mallika

4. E.Devaraj

5. D.Gandhimathi

6. E.Murugan

7. M.Pushpa

8. V.Shanthi

9. P.Soundari

...Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order dated 14.05.2018 passed in C.M.P.No.1376 of 2018 in C.C.No.21 of 2018 pending on the file of the learned Judicial Magistrate No.I, Kancheepuram.

For petitioner : Mr.M.Sena Prasad

For Respondents : Mr.C.Raghavan

Government Advocate (Crl. Side) for R1

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This Criminal Original Petition has been filed to set aside the order dated 14.05.2018 passed in C.M.P.No.1376 of 2018 in C.C.No.21 of 2018, pending on the file of the Judicial Magistrate No.I, Kancheepuram.

2. The respondents 2 to 9 are facing prosecution in C.C.No.21 of 2018 for the offences under Sections 498-A, 494 and 109 IPC. It is the case of the prosecution that Aruldoss (A1)

got married to the petitioner /de facto complainant and the de facto complainant was subjected to cruelty. Thereafter, Aruldoss (A1) contracted second marriage with Soundari (A8) and got two children through the wedlock. In this background, charges were framed against the accused and they pleaded not guilty. 13 witnesses have been examined on behalf of the prosecution and the Investigating Officer alone remains to be examined.

3. While so, the learned Assistant Public Prosecutor filed a petition in C.M.P.No.1376 of 2018 in C.C.No.21 of 2018 for examining three additional witnesses viz., (1) Village Administrative Officer of Pakkam Village to establish that A1 and A8 are living as husband and wife; (2) The Registrar of the Births and Deaths Department to produce the Birth Certificates of two sons of A1 & A8; (3) The Principal of Sri Venkateshwara Matriculation School, Thiruvallur, to prove that A1 & A8 are the parents of the two children. The trial Court, by a well considered and detailed order, has dismissed C.M.P.No.1376 of 2018, aggrieved by which, the de facto complainant is before this Court.

4. Heard the learned counsel for the petitioner/de facto complainant and the learned Government Advocate (Crl. Side) for the first respondent.

5. The learned counsel for the de facto complainant submitted that those three additional witnesses are just and essential for deciding the fact in issue and therefore, the trial Court ought not to have dismissed C.M.P.No.1376 of 2018.

6. Per contra, the learned Government Advocate (Crl. Side) controverted the submission.

7. Mr.Balasubramanian, learned counsel, took notice for the respondents 2 to 9.

8. This Court is able to appreciate the grievance of the de facto complainant that she was married by Aruldoss (A1) and was subjected to cruelty and was deserted by Aruldoss (A1) in search of green pastures. However, the three witnesses whom the prosecution wants to examine as additional witnesses can at the most prove that A1 & A8 were having live in relationship and not the factum of marriage. Therefore, the trial Court was right in observing that the examination of the three witnesses will not advance the case of the prosecution.

9. In such view of the matter, this Court does not find any infirmity in the order passed by the trial Court warranting interference. Hence, this petition is dismissed. However, the trial Court is directed to complete the trial in C.C.No.21 of

2018 within a period of three months from the date of receipt of a copy of this order. If the accused adopt any dilatory tactics, they can be remanded to custody in the light of the law laid down by the Supreme Court in State of Uttar Pradesh v. Shambhu Nath Singh [JT 2001 (4) SC 319]. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Kancheepuram.

2.The Inspector of Police
All Women Police Station
Sriperumputhur
Kancheepuram District.

3.The Public Prosecutor
High Court, Madras.

+1 cc to Mr.M.Balaji Advocate sr 36905

Crl.O.P. No.15294 of 2018

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