

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2018

CORAM:

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

Cr1.O.P.No.15343 of 2018

Damarapati Giri

Petitioner

vs.

1 The Inspector of Police
W-8 Thirumangalam All Women Police Station
Chennai 600 040

2 M.B. Ramya Respondents

(R2 impleaded suo motu vide order dated 22.06.2018)

Criminal Original Petition filed under Section 482 of Cr.P.C. to direct the first respondent police not to harass the petitioner by orally summoning and compelling the petitioner frequently to produce his minor son with an aim to hand over to the petitioner's wife illegally by ignoring the divorce case which is filed by the petitioner and which is pending before the Family Court at Tirupati in F.C.O.P. No.64 of 2017

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For petitioner Mr. G. Ravikumar

For R1 Mrs. Kritika Kamal P.
Govt. Advocate (Cr1. Side)

For R2 Mrs. B. Srujana

ORDER

This Criminal Original Petition has been preferred seeking a direction to the first respondent police not to harass the petitioner by orally summoning and compelling him frequently to produce his minor son with an intent to hand over him to the petitioner's wife illegally, by ignoring the divorce case which is filed by the petitioner and which is pending before the Family Court-cum-V Additional District Court at Tirupati in F.C.O.P. No.64 of 2017.

2 For the sake of convenience, the parties are referred

to by their name.

3 Damarapati Giri (for brevity "Giri") got married to Ramya on 31.01.2005 and they have a son Hari through the wedlock. Their marriage ran into rough weather resulting in the spouses getting estranged. Admittedly, their son Hari is now under the custody of Giri in Tirupathi, Andhra Pradesh and he is studying VII standard in Accord School, Tirupathi. While so, Ramya gave a complaint to the first respondent police, pursuant to which, the police contacted Giri and demanded that Hari should be brought to Chennai. At that juncture, Giri has filed the instant application seeking the aforesaid relief.

4 On 22.06.2018, this Court impleaded Ramya suo motu as second respondent and notice was sent to her and today, she is present and is represented by her counsel Mrs. Srujana.

5 It is an admitted fact that Giri filed F.C.O.P. No.64 of 2017 before the Family Court-cum-V Additional District Court, Tirupathi against Ramya and impleaded the alleged adulterer as the second respondent. He has also marked Ramya's mobile phone in the divorce petition as a material object, in order to establish his case by making the Court play the conversations between Ramya and the alleged adulterer, recorded in Ramya's mobile phone.

6 The learned counsel for Ramya submitted that Ramya wants to see her child and that is why she was desperately seeking police aid. She further submitted that Ramya has approached the Supreme Court for transferring the proceedings in F.C.O.P. No.64 of 2017 from Tirupathi to Chennai and notice has also been served on Giri, which Mr. Ravikumar, learned counsel for Giri conceded.

7 In view of the pendency of matrimonial proceeding between the parties, this Court cannot issue a direction to Giri to produce Hari in Chennai. However, Mr. Ravikumar, learned counsel for Giri gave an undertaking on behalf of Giri that, as and when Ramya comes to Tirupathi on a Saturday, Giri is ready and willing to produce Hari in the chambers of the Family Judge-cum-V Additional District Judge, Tirupathi. The said undertaking given by Mr. Ravikumar is recorded. This Court cannot issue any direction to the Family Court-cum-V Additional District Court, Tirupathi, since the said Court falls within the territorial jurisdiction of the High Court of Andhra Pradesh. Both the parties conceded that the trial in F.C.O.P. No.64 of 2017 has been stayed by the Supreme Court. However, even if the trial is stayed, that may not be an impediment for Ramya to see her son Hari in Tirupathi. Therefore, this Court requests the Family Judge-cum-V Additional District Judge, Tirupathi, to fix a date

and permit Ramya to meet Hari in his chambers and on that date, Giri shall abide by the undertaking given to this Court by Mr.Ravikumar, on his behalf.

8 It is made clear that the first respondent police shall not harass Giri on the complaint of Ramya since the parties may be advised to work out their remedies before the matrimonial Court.

This Criminal Original Petition stands disposed of in the above terms.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

To

- 1 The Inspector of Police
W-8 Thirumangalam All Women Police Station
Chennai 600 040
- 2 The Family Judge-cum-V Additional District Judge
Tirupathi
- 3 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.G.Ravikumar, Advocate SR.No.45595
+1cc to Mr.S.B.Srujana , Advocate SR.No.45784

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GN(13/07/2018)