

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.19144 of 2018
and Crl.M.P.Nos.10059 & 10060 of 2018

Rukmani

.. Petitioner

Vs

1.The Inspector of Police,
Anthiyur Police Station,
Anthiyur,
Erode District.

2.Ramayee

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the case in STC No.106 of 2018 on the file of the Judicial Magistrate-II, Bhavani, quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.S.Vinoth Kumar

For Respondents : Mr.C.Iyyappa Raj [for R1]
Addl. Public Prosecutor

O R D E R

On the complaint lodged by Ramayee [R2], the respondent Police registered a case in Crime No.5 of 2017 and after completing the investigation, has filed a Charge Sheet in STC.No.106 of 2018 before the Judicial Magistrate No.2, Bhavani against the petitioner herein, for quashing which, this petition has been filed.

2.Heard Mr.Vinoth Kumar, learned counsel for the petitioner and learned Additional Public Prosecutor.

3.Mr.Vinoth Kumar submitted that the petitioner is a Teacher and that, the property in dispute belongs to her and not to the de facto complainant. He further contended that the de facto complainant had filed O.S.No.118 of 2005 on the file of the District Munsif Court, Bhavani against the husband of the petitioner and that suit was dismissed on 02.02.2006. Therefore, he contended that the allegation of the de facto

complainant that the petitioner had trespassed into the property and had assaulted her cannot be true.

4.Per contra, learned Additional Public Prosecutor refuted the contentions.

5.On a reading of the Charge Sheet in STC.No.106 of 2018, it is alleged that on 31.12.2016, around 1.00 p.m., the petitioner had assaulted the de facto complainant and had abused her. The statement of Dr.Kavitha, who has treated the de facto complainant is to the effect that the de facto complainant was admitted to the hospital and was given emergency treatment on 31.12.2016 around 4.10 p.m. In the light of the evidence collected by the Police, it cannot be stated that there are no prima facie materials to frame charges against the petitioner. Hence, the petition is devoid of merits and dismissed with liberty to the petitioner to raise all the points before the trial Court, after the charges are framed. Consequently, connected Miscellaneous Petitions are closed.

6.Mr.Vinoth Kumar submitted that the petitioner is a Teacher and her presence before the trial Court may be dispensed with.

7.Accepting the submission, till the charges are framed, the petitioner should regularly appear before the trial Court. After the charges are framed, her presence before the trial Court shall be dispensed with, on condition that she shall file an affidavit before the trial Court that she will not dispute her identity and that, her counsel will cross-examine the witnesses when they examined in-chief, as held by the Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MLJ [Cr1] 288. The petitioner shall present before the trial Court for answering charges, for questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if the petitioner files an application under Section 317 Cr.P.C., the same shall be liberally construed. If the accused adopts any dilatory tactics, the trial Court shall insist upon the presence of the accused. If the accused absconds, a fresh FIR can be registered against her under Section 229-A of IPC. The trial Court is directed to complete the trial in STC.No.106 of 2018 within a period of three months from the date of receipt of a copy of this order, provided the accused/petitioner cooperates with the trial Court.

Sd/-

Deputy Registrar

//True copy//

Sub Assistant Registrar

gya

To

1.The Judicial Magistrate-II,
Bhavani.

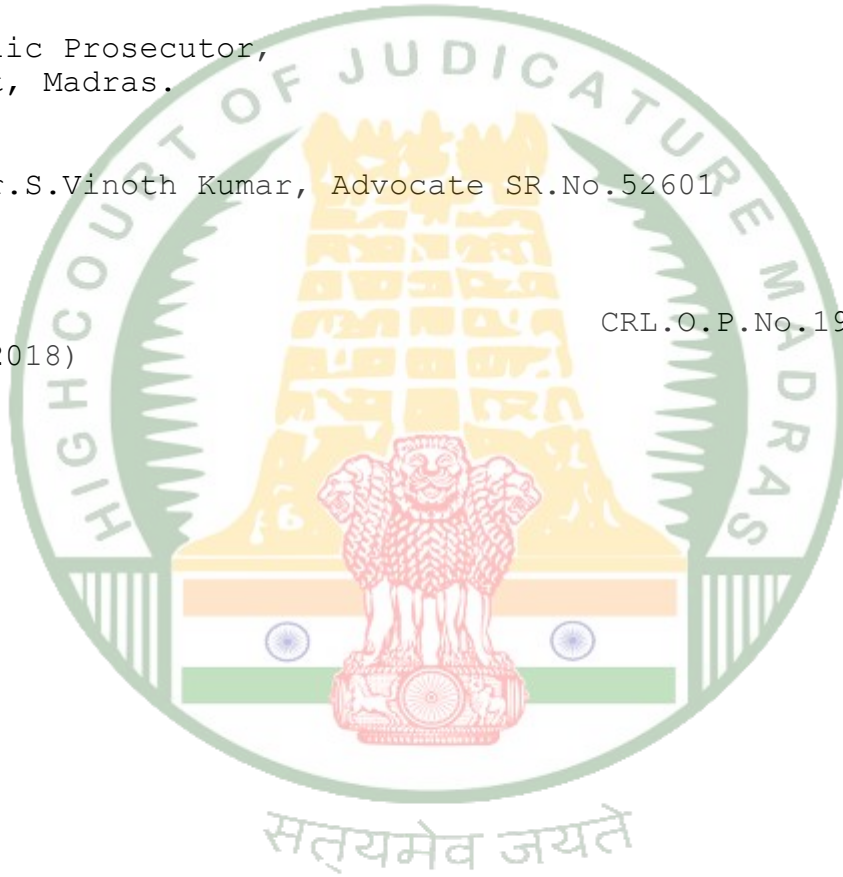
2.The Inspector of Police,
Anthiyur Police Station,
Anthiyur, Erode District.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Vinoth Kumar, Advocate SR.No.52601

GN(09/08/2018)

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