

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 02.11.2018
CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.25796 of 2018
and CRL.M.P.Nos.14765 & 14766 of 2018

1.Natarajan
2.Pushparani

.. Petitioners

Vs

Aishwary Pathi

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the criminal case in C.C.No.3879 of 2017 on the file of the learned Judicial Magistrate, Mettupalayam quash the same by allowing this criminal original petition.

For Petitioners : Mr.A.Saravanan

O R D E R

For the sake of convenience, the parties will be referred to by their name. Aishwarya got married to Pathi Senthil (A1) and it is her allegation that she was subjected to cruelty and that, Pathi Senthil has contracted a second marriage with Vivitha (A4). Hence, Aishwarya has filed a private complaint in C.C.No.3879 of 2017 before the learned Judicial Magistrate, Mettupalayam, against her husband Pathi Senthil and 13 others, for quashing which, A-5 and A-6, who are the parents of Vivitha (A4) are before this Court.

2.Heard Mr.A.Saravanan, learned counsel for the accused and the perused the materials placed on record.

3.Learned counsel for the accused submitted that Vivitha did not marry Pathi Senthil (A1) and that, a false complaint has been initiated. He further contended that a Police complaint was given and after due enquiry, the case was closed.

4.However, on a reading of the complaint, Aishwarya has alleged that a child was born to Vivitha through Pathi Senthil (A1). In such view of the matter, the prosecution cannot be quashed at the threshold and an opportunity should be given to Aishwary to establish her case.

5.However, taking into consideration the nature of the allegations in the complaint, the presence of the petitioners

before the trial Court shall be dispensed with on condition that the petitioners shall appear before the trial Court within two weeks from the date of receipt of a copy of this order and execute a bond for Rs.5,000/- with two common sureties. Thereafter, the petitioners shall appear before the trial Court for framing charges, questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if the petitioners file 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 him under Section 229-A of IPC.

With the above direction, this petition is closed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dua/gya

To

The Judicial Magistrate,
Mettupalayam.

+1cc to Mr.A.Saravanan, Advocate, S.R.No.76289

CRL.OP.No.25796 of 2018

KS(CO)

rrs 26/11/2018