

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.27816 of 2018
and
Crl.M.P.No.16096 of 2018

B. Gunasekaran

...Petitioner

Versus

1. The Inspector of Police,
All Women Police Station,
Sankari,
Salem District.

2. Ranjana Chellam

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the F.I.R. in Cr.No.25 of 2018 on the file of the first respondent/complainant.

For Petitioner : Mr.E.K.Kumaresan

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor For R1

O R D E R

This petition has been filed seeking for quashing the F.I.R. in Crime Cr.No.25 of 2018 ,pending on the file of the first respondent Police.

2. The petitioner is father-in-law and he has been added as A2 in the F.I.R. The F.I.R. has been registered based on the complaint given by the second respondent, who is the wife, as against six accused persons for an offence under Sections 294(b), 323, 324, 354 and 506(ii) of IPC.

3. The learned counsel for the petitioner would submit that even as per the admitted case of the prosecution, the second respondent, had come into the house of the petitioner and the incident is said to have take place there. The learned

counsel also brought to the notice of the Court the order of the learned Judicial Magistrate I, Sankari, wherein the learned Magistrate had refused to remand the petitioner on the ground that the respondent was living separately with her husband for more than three years and had gone away from the matrimonial home for more than eight months and this is an evident from the statement given by the defacto complainant. The Court below did not find any valid reasons to remand the petitioner and his wife and therefore, had rejected the remand and directed the Investigating Officer to proceed further with the investigation and file a final report.

3. The learned Counsel for the petitioner by bringing to the notice of this Court, the order passed by the learned Judicial Magistrate, would submit that there is no prima facie case against the petitioner and therefore, this Court has to interfere with the FIR in exercise of its jurisdiction under Section 482 of Cr.P.C.

4. The consideration of a Court for refusing to remand and the consideration of a Court for the purpose for quashing an F.I.R. are completely different. Even if a Court does not find enough grounds to remand an accused person, that does not mean that the F.I.R. as against that accused person fails. This Court, while exercising its jurisdiction under Section 482 of Cr.P.C., has to merely go by the allegations made in the complaint. If there are prima facie allegations against the accused persons, this Court cannot interfere with the investigation. This position of law had been made clear by the Hon'ble Supreme Court of India in the judgement reported in judgment 2015(1) SCC 103 Paragraph 34.4.

5. In the facts and circumstances of the case, this Court is not in a position to interfere with the investigation at this stage. Accordingly, this Criminal Original Petition is disposed of with a direction to the respondent police to complete the investigation and file a final report within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rli/kal

To

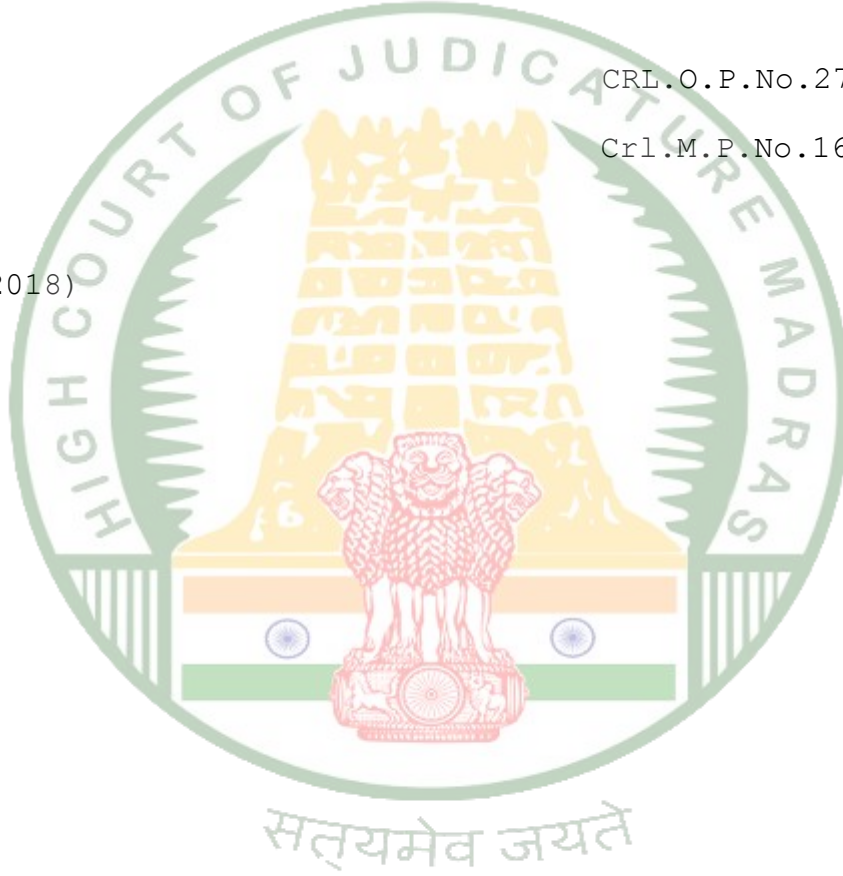
1.The Inspector of Police,
All Women Police Station,
Sankari,
Salem District.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.E.K.Kumaresan, Advocate, S.R.No.82795

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GN(17/12/2018)



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