



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

CORAM:

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THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. (MD) No.156 of 2018

Karuppasamy

: Petitioner/ Petitioner

Vs.

State through
the Inspector of Police,
Thirumangalam Police Station,
Thirumangalam,
Madurai District.
Crime No.386 of 2017.

: Respondent/ Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records of the order dated 09.02.2018 in Cr.M.P.No.497 of 2018 on the file of the learned Judicial Magistrate, Thirumangalam and set aside the same and allow this Criminal Revision Petition.

For Petitioner

: Mr.T.Amjad Khan,

For M/s.APN Law Associates

For Respondent

: Mrs.S.Bharathi,

Government Advocate (Crl.side)

ORDER

On the complaint lodged by Anna Mayil, Inspector of Police, All Women Police Station, Thirumangalam Taluk Circle, Madurai, initially a case in Crime No.386 of 2017 was registered on 21.11.2017 for the offences under Sections 341, 294(b), 333, 324, 506(ii), 307 of the Indian Penal Code and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 against Karuppasamy and Karmegam and thereafter, the same was altered into one under Sections 341, 294 (b), 333, 324, 506(ii), 307 of the Indian Penal Code and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 r/w 201, 212, 120-B of the Indian Penal Code, adding nine other persons as accused.

2. It is the case of the prosecution that Karuppasamy and Karmegam were in inebriated state and when the Inspector of Police was on rounds, she found them causing disturbance to the public. When the Inspector of Police questioned the duo, they seem to have indiscriminately attacked the police party and escaped. During the course of investigation, the police learnt that the duo are Army Personnel and intimation was sent to the concerned Army Command. On



the directions of the Army Command, the duo surrendered before the learned Judicial Magistrate No.V, Madurai on 07.12.2017 and were taken into custody. After 34 days of incarceration, they were granted bail in CrI.M.P.No.7089 of 2017 on 09.01.2018 by the learned First Additional District and Sessions Judge, Madurai.

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3. It appears that, during the course of investigation, the police have recovered the Indian Armed Forces Identity Card of Karuppasamy (A-1) and his Leave Certificate and both these documents have been produced before the learned Judicial Magistrate, Thirumangalam. The petitioner filed Cr.M.P.No.497 of 2018 under Section 451 of the Code of Criminal Procedure for return of the Army Identity Card and the Leave Certificate, which has been dismissed by the learned Judicial Magistrate, Thirumangalam on 09.02.2018, aggrieved by which, the petitioner has filed the present Criminal Revision Case.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) for the respondent.

5. The Trial Court has dismissed the petition for return of the two documents on the ground that those two documents are required to establish the identity of the accused during trial, since these documents were recovered at the place of occurrence by the police.

6. Per contra, the learned counsel for the petitioner submitted that the petitioner had already suffered 34 days of incarceration and without the Identity Card, he cannot even report to the Army Headquarters.

7. This Court has to strike a harmonious balance between the claim of the police and the requirement of the petitioner.

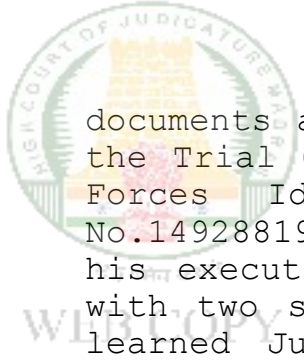
8. The learned counsel for the petitioner submitted that the petitioner will not dispute his identity nor dispute the fact that the Identity Card and the Leave Certificate were recovered at the place of occurrence, as contended by the police.

9. If that is so, the petitioner is directed to file an affidavit before the learned Judicial Magistrate, Thirumangalam that

(a) he will not dispute the fact that he is an Army Personnel issued with Identity Card No.C994134 ; No.14928819A;

(b) he will not dispute the place of recovery of both the documents, as projected by the police.

10. On filing of such an affidavit, the Trial Court shall take photocopies of the two documents and certify the same as true copy. The petitioner should further give an undertaking that he will not object to the marking of the certified photocopies of the two



documents as secondary evidence before the Trial Court. Thereafter, the Trial Court is directed to hand over the original Indian Armed Forces Identity Card with Neck Rope, bearing No.C994134; No.14928819A, Leave Certificate No.1428819ANK to the petitioner on his executing a bond for Rs.5,000/- (Rupees Five thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Thirumangalam. The petitioner shall give an undertaking that he shall produce the documents before the Trial Court as and when required. The Trial Court shall mark the certified photocopies of the two documents during trial as secondary evidence.

11. In the result, the order dated 09.02.2018 in Cr.M.P.No.497 of 2018 on the file of the learned Judicial Magistrate, Thirumangalam, is set aside and the Criminal Revision Case is allowed to the extent indicated above.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

1. The I Additional District and Sessions Judge,
Madurai.
- 2.The Judicial Magistrate(FAC,
Thirumangalam.
3. The superintendent, Central Prison, Madurai.
- 4.The Inspector of Police,
Thirumangalam Police Station,
Thirumangalam,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.N.ANANTHAPADMANABAN, ADVOCATE, SR NO.56610

Order made in
Cr1.R.C.(MD)No.156 of 2018
21.03.2018

SML

MS/SKN-RSK/SAR-1/22.03.2018/3P.7C