



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.17680 of 2017

M.Anbukkarasi .. Petitioner/Defacto Complainant
-Vs-

1.The Superintendent of Police,
Thanjavur District, Thanjavur.

2.The Inspector of Police,
All Women Police Station,
Pattukkottai,
Thanjavur District. .. Respondents/Respondents

3.M.Manoharan

4.Tmt.Saraswathi

5.Tmt.Parvathi .. Respondents/Accused

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the respondents 1 and 2 to take action as contemplated under Sections 82 and 83 of Cr.P.C against the respondents No. 3 to 5 in C.C.No.765/2012 on the file of the Judicial Magistrate, Pattukkottai.

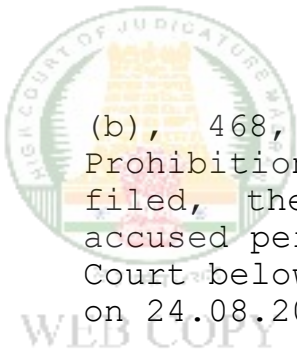
For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.K.Suyambulinga Bharathi for R1 and R2
Government Advocate (Crl. Side)
No Appearance for R3 to R5

ORDER

This Criminal Original Petition has been filed by the petitioner seeking for a direction to the respondent police to take action against the respondents 3 to 5 under Sections 82 and 83 of Cr.P.C.

2.The learned counsel for the petitioner would submit that the petitioner is the defacto complainant and she has filed a complaint against the respondents 3 to 5 and the same resulted in a registration of an FIR in Crime No.25 of 2011 for an alleged offence under Section 498 (A) of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act. The respondent police after completion of the investigation filed a final report before the Judicial Magistrate Court, Pattukkottai and the same was taken on file in C.C.No.765 of 2012 for the alleged offences under Sections 363, 120



(b), 468, 471, 406, 498A of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act. After the final report was filed, the respondent police attempted to take summons to the accused persons and they were not able to be served. Therefore, the Court below issued a non bailable warrant against respondents 3 to 5 on 24.08.2017. However, till date the same has not been effected.

3.The learned counsel for the petitioner would submit that the respondents 3 to 5 are living in Singapore and they are not appearing before the Court and the warrant has been kept pending for more than a year. The learned counsel would further submit that if the respondent police is not in a position to execute the non bailable warrant, they must proceed further to take action in accordance with Sections 82 of Cr.P.C to proclaim the accused persons as absconding accused and must also proceed to attach their property under Section 83 of the Code of Criminal Procedure. Without following the procedures, the non bailable warrant is kept pending till date.

4.The learned Government Advocate would submit that subsequent to the non bailable warrant issued by the Court below, the Court below had written a letter, dated 25.07.2017 to the Ministry of Home affairs seeking for necessary action to bring the accused persons back to India in order to complete the trial in the case pending in C.C.No.765 of 2012. No development has happened in this regard for the last one year. Therefore, the learned counsel for the petitioner would submit that effective steps must be taken by the respondent police to make the accused persons as proclaimed offenders and proceed further to attach their property. According to the learned counsel only if such effective steps are taken, the accused persons will be forced to come back to India and face the trial.

5.In the facts and circumstances of the case, there shall be a direction to the second respondent to take immediate action under Sections 82 and 83 of the Code of Criminal Procedure against the respondents 3 to 5 by filing of appropriate application before the Judicial Magistrate, Pattukkottai. Apart from this the first respondent is also directed to proceed further to initiate lookout circular proceedings against respondents 3 to 5 immediately.

6.Accordingly, this Criminal Original Petition is disposed of with the above direction.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)



To

1.The Judicial Magistrate,
Pattukottai.

2.The Superintendent of Police, Thanjavur District,
Thanjavur.

3.The Inspector of Police, All Women Police Station,
Pattukkottai, Thanjavur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.Duraisamy, Advocate in SR No.85059

CRL.O.P. (MD) No.17680 of 2017

NM/RP/SAR 4/26.09.2018/3P/6C