

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8708 of 2019
and
Crl.M.P.No.4606 of 2019

R.Aswathi @ Aswathia

...Petitioner

Vs.

1.State Represented by
The Inspector of Police
Chettipalayam Police Station
Crime No.665 of 2011
Coimbatore

2.P.Ilayaraja

...Respondents

PRAYER:Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the case in P.R.C.No.27 of 2017 pending in the court of the Judicial Magistrate No.VII, Coimbatore and in Crime No.665 of 2011 on the file of the 1st respondent.

For Petitioner : Mr.R.John Sathyan

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

ORDER

The Criminal Original Petition has been filed by the petitioner under Section 482 of Cr.P.C., to call for the records and quash the case in P.R.C.No.27 of 2017 pending in the court of the Judicial Magistrate No.VII, Coimbatore and in Crime No.665 of 2011 on the file of the 1st respondent.

2.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the proceedings in P.R.C.No.27 of 2017 has been initiated

before the Judicial Magistrate No.VII, Coimbatore and the 1st respondent police registered a case in Crime No.665 of 2011 for the offence under Section 395 of IPC, 1860, as against the petitioner. Hence, prays for quashing of the same.

3.The learned Additional Public Prosecutor would submit that the proceedings in P.R.C.No.27 of 2017 pending in the court of the Judicial Magistrate No.VII, Coimbatore and investigation in Crime No.665 of 2011 is almost completed and the respondent police have only to file final report.

4.Heard Mr.R.John Sathyan, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the 1st respondent.

5.It is seen that there is a specific allegation as against the charge sheet and further there is also a specific allegation as against the 1st accused. She seems to be the wife of the 8th accused and she has also filed a divorce petition in H.M.O.P.No.25 of 2016 on the file of the Family Court, Coimbatore, as against her husband / 8th accused, in which, she has stated specifically that only because of the illegal activities of the 8th accused, the divorce petition is filed. The 8th accused was set exparte in H.M.O.P.No.25 of 2016 and the petitioner also got divorce in H.M.O.P.No.25 of 2016 by the II Additional Sub Judge, Coimbatore on 15.04.2016. However, on this ground, the entire proceedings cannot be quashed.

6.It is also seen from the First Information Report that there is a specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7.In view of the above discussion, the learned Judicial Magistrate No.VII, Coimbatore is hereby directed to complete the trial in P.R.C.No.27 of 2017 within a period of six months from the date of receipt of a copy of this Order.

8.However, the petitioner being the lady, the personal appearance of her is dispensed with and she shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

9. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

kas

To.

1. The Judicial Magistrate No. VII
Coimbatore

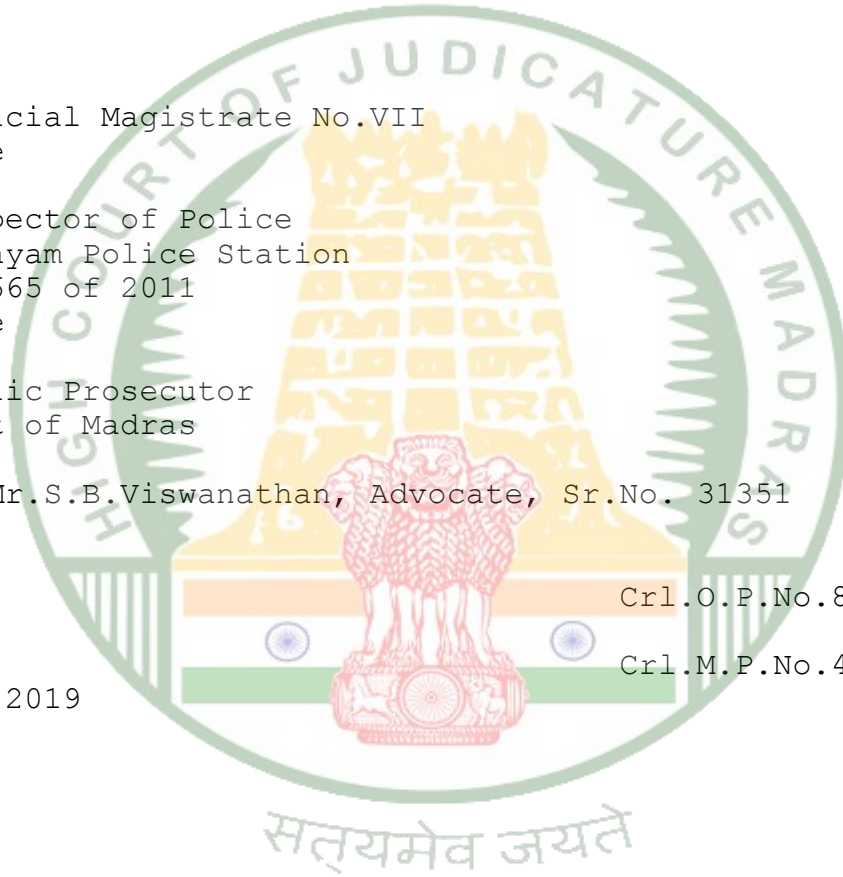
2. The Inspector of Police
Chettipalayam Police Station
Crime No. 665 of 2011
Coimbatore

3. The Public Prosecutor
High Court of Madras

+1 cc to Mr. S.B. Viswanathan, Advocate, Sr. No. 31351

Crl.O.P.No.8708 of 2019
and
Crl.M.P.No.4606 of 2019

CSL/29.05.2019



WEB COPY