

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.15096 of 2013 and
M.P.No.1 of 2013

Mohammed Rafik @ A.R.Rafik

... Petitioner

Vs.

1. State rep. by
The Inspector of Police,
W-18, All Women Police Station,
M.K.B.Nagar, Chennai-600039.

2. Yashmin Najim Begum

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.1181 of 2011 on the file of the learned Chief Metropolitan Magistrate Court, Egmore, Chennai, and to quash the same.

For Petitioner : Mr.G.Anabayachozhan

For Respondents : Mr.R.Ravichandran

Govt. Advocate (Crl.Side) for R1

Notice served - No appearance - R2

ORDER

The first respondent police registered a case against the petitioner based on the complaint given by the second respondent for the offence under Section 498(A), 406, 506(1) of IPC r/w Section 4 of Dowry Prohibition Act. After completing investigation, the first respondent police laid a charge sheet before the learned Chief Metropolitan Magistrate, Egmore, Chennai and the learned Magistrate took cognizance on the same in C.C.No.1181 of 2011. After receipt of summons, the petitioner has filed the present petition seeking to quash the above case.

2 The learned counsel appearing for the petitioner would submit that subsequent to the present complaint, the petitioner and the second respondent had entered into compromise and got

divorce. Further, the second respondent got re-married with another person and now there is no dispute between both the parties. Therefore, the present case against the petitioner has to be quashed.

3 The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that in this case charges were framed and trial also commenced and out of 16 witnesses, P.Ws.1 to 7 were examined in chief. Since the petitioner has not appeared before the Court below, Non Bailable Warrant has been issued against him and the same is pending. Therefore, the present case against the petitioner need not be quashed.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 Admittedly, the petitioner is husband and second respondent is wife. The second respondent made complaint against the petitioner before the first respondent and the case was taken on file and the trial Court framed charges also. It is the contention of the petitioner that subsequent to this complaint, the marriage between the petitioner and the second respondent was dissolved and they got re-married with another person. This Court is of the view that subsequent divorce will not take away the offence committed by the petitioner when they were under domestic relationship. Furthermore, in the case on hand, trial commenced and some of the witnesses have also been examined in chief. Under these circumstances, this Court does not find any reason to quash the case against the petitioner.

6 Accordingly, this criminal original petition stands dismissed. Consequently connected miscellaneous petition is closed. However, since the case in C.C.No.1181 of 2011 is pending from the year 2011, the trial Court is directed to dispose of the same in accordance with law within a period of four months from the date of receipt of a copy of this order and file a report on the same before this Court.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

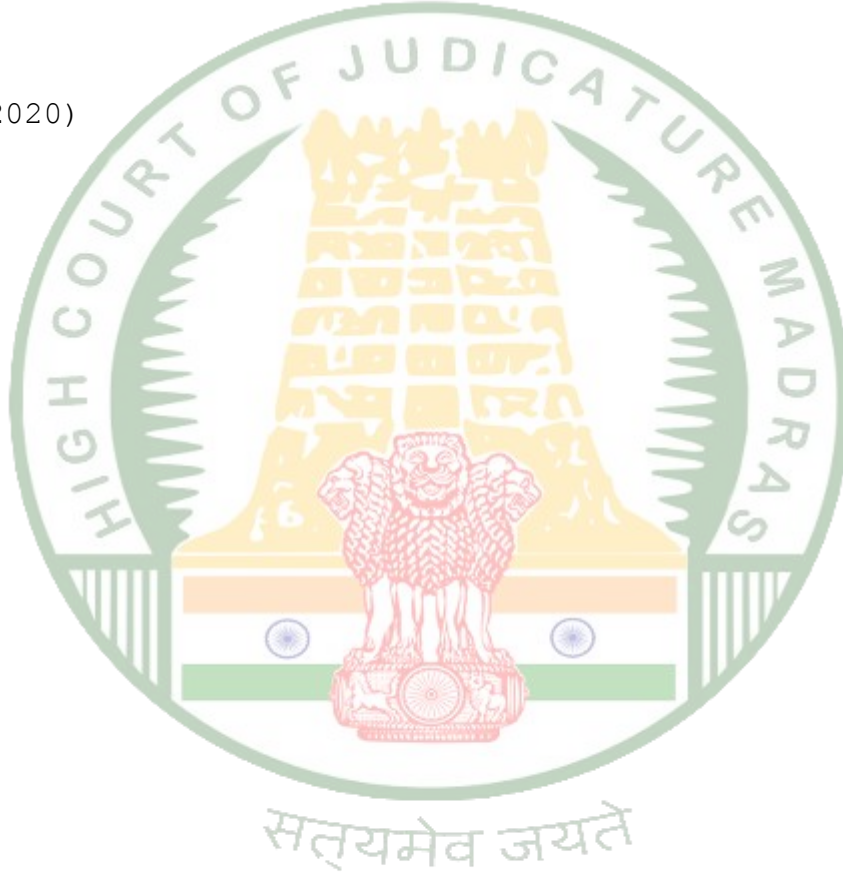
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To

1. Chief Metropolitan Magistrate Court, Chennai.
2. The Inspector of Police, W-18, All Women Police Station,
M.K.B.Nagar, Chennai-600039.
3. The Public Prosecutor, High Court of Madras.

Crl.O.P.No.15096 of 2013 and
M.P.No.1 of 2013

RK(CO)
SP(11/03/2020)



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