

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.10.2020

PRONOUNCED ON : 14.10.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NO.16730 OF 2017

AND

CRL.M.P.NOS.10271 & 10272 OF 2017

C.Ponmalar

..Petitioner/Petitioner/
Complainant

Vs.

1.Mathaiyan
2.Samykannu
3.Devaraj
4.Jayaraman

.. Respondent/Respondent/Accused

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.M.P.No.2662/2016 in C.C.No.13/2016 on the file of the learned Judicial Magistrate, Harur and set aside the order dated 27.07.2017.

For Petitioner : Mr.V.Vijayakumar
(No appearance)

For Respondents : Mr.R.Arun Dattan
for Ms.V.Suguna

ORDER

There was no representation for the petitioner on 06.10.2020, whereas the counsel for the respondent was present, therefore, this Court posted the matter for dismissal on 09.10.2020. Even on 09.10.2020, there is no representation for the petitioner. Therefore, the Court Officer tried to contact the counsel for the petitioner over phone in the number given by him in the petition viz., 98411-38178, but the response was "the telephone number is temporarily out of service". Therefore, this Court reserved the order and went through the records.

2. This petition has been filed to set aside the order dated 27.07.2017 in C.M.P.No.2662/2016 in C.C.No.13/2016 on the file of the learned Judicial Magistrate, Harur.

3. The petitioner has initiated a prosecution in C.C.No.13/2016 (originally in C.C.No.128/2013 on the file of Judicial Magistrate Court, Pappireddipatti), for the offences under Section 499 and 500 IPC., against the respondent herein, which was later transferred as C.C.No.13/2016, and is now pending on the file of the learned Judicial Magistrate, Harur.

4. The case of the petitioner is that, she was into a partnership business in laying BSNL cables in the name and style of Shri Amman Constructions; that on the complaint lodged by Mathaiyan [A1] on 08.02.2013, the Inspector of Police, Harur, called the petitioner and her husband for an enquiry; on 11.02.2013, the husband of the petitioner appeared for enquiry, and he was informed by the Inspector of Police, Harur that an agreement dated 12.04.2012 was purported to have been executed by his wife, the petitioner herein, under which, some money was due to the accused [A1]; immediately the husband of the petitioner contacted the petitioner over phone who at that time had informed that the said agreement was not executed by her, but was forged by the accused [A1] in conspiracy with other accused [A2 to A4] and that in order to defame the petitioner, in front of her relatives and other important persons of that locality, who were then present in the police station at the time of enquiry. This is the sum and substance of the allegations in C.C.No.13 of 2016.

5. It is also alleged in the complaint that the agreement dated 12.04.2012 has been filed as a document in another case viz., in C.C.No.6 of 2014, pending on the file of Judicial Magistrate Court, Pappireddipatti. Therefore, the petitioner filed CMP.No.2662 of 2017 in C.C.No.13 of 2016, to call for the document dated 12.04.2012 from the file of the Judicial Magistrate, Pappireddipatti in C.C.No.6 of 2014, so as to send the document along with the admitted signatures of the petitioner to the handwriting expert for comparison.

6. The trial Court has rightly dismissed this petition by the impugned order dated 24.07.2017 on the short ground that, for deciding the allegations in C.C.No.13 of 2016, the said document has no relevance.

7. Challenging the impugned order dated 24.07.2017 in C.M.P.No.2662 of 2017 in C.C.No.13 of 2016, the petitioner has filed the present petition.

8. This Court perused the records. Even in the petition filed before this Court, the petitioner has not stated as to how the document dated 12.04.2012, would be relevant to decide whether the petitioner was defamed or not, during the enquiry that was conducted by the Inspector of Police, Harur, on

11.02.2013, with the husband of the petitioner.

9. In paragraph No.7 of the impugned order, the trial Court has observed as follows :

7. It is needless to mention here the case is of the year 2013. From 04.02.2014, the case was stands posted for cross examination of PW1. The perusal of records shows the petitioner was continuously absent and avoiding to subject herself for cross examination. In such circumstances the petitioner come forward with this application. The conduct of the petitioner clearly establishes that she wants to prolong the case. For the above said reasons this court feels the petition lack merits. In the considered view this court concludes as the petitioner is not entitled to the reliefs as prayed for."

10. This Court finds that the above observation of the trial Court is justified, as it could be seen from the case status of C.C.No.13/2016 that, till date the petitioner has not subjected herself to appear before the trial Court for cross-examination. Hence, this petition is devoid of merits and dismissed. Consequently, connected miscellaneous petitions are closed. If the petitioner does not appear before the trial Court in the next two hearings, C.C.No.13/2016 may be dismissed under Section 256 Cr.P.C.,

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Judicial Magistrate
Harur.
2. Do-The Chief Judicial Magistrate,
Dharmapuri District.

Cr1.O.P.No.16730 of 2017

MTII (CO)
CS/06/11/2020