

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.31693 of 2019

M.Amala

...Petitioner

Vs.

1.State Rep by,

The Inspector of Police,
W8 All Women Police Station,
Thirumangalam,
Chennai-600 037,
Crime No.20 of 2018

2. G.Saravanakumar @ Yeshwanth

...Respondents

Prayer :- Criminal Original Petition filed under Section 439(2) of Cr.P.C., to cancel the bail order dated 06.12.2018 made in Crl.M.P.No.3861 of 2018 passed by the learned Additional Mahila Court, Egmore, Chennai for willfully violating the order dated 12.02.2019 made in Crl.O.P.No.1992 of 2019.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.L.Charles Premkumar (For R1)
Government Advocate (Crl.Side)
: Mr.John Sathyan (For R2)

ORDER

This petition has been filed to cancel the bail order dated 06.12.2018 passed in Crl.M.P.No.3861 of 2018 on the file of the learned Additional Mahila Court, Egmore, Chennai.

2. The learned counsel for the petitioner submitted that on the complaint lodged by her, the first respondent registered the case in Crime No.20 of 2018, for the offences under Sections 498A, 313, 494 IPC, against the second respondent and two others, alleging that the petitioner and the second respondent are husband and wife and after their marriage, the second respondent caused cruelty to the petitioner by demanding dowry. The pregnancy of the petitioner also was aborted forcibly by the second respondent. Thereafter, she was also driven out from the matrimonial home. Therefore, the petitioner filed a divorce petition in HMOP.No.274 of 2014 and it is pending. In fact, in the divorce petition, interim maintenance was awarded in favour of the petitioner and her child at Rs.20, 000/- per month. Even then,

the second respondent did not comply with the said condition. Therefore, again the petitioner lodged a complaint under the Domestic Violence Act in D.V.No.21 of 2016, on the file of the Judicial Magistrate, Ambattur. Thereafter, he (the 2nd respondent) got married with the second accused and also gave birth to a child. Hence, the complaint.

3. In the said FIR, he was arrested on 29.11.2018 and he was enlarged on bail in Crl.M.P.No.3861 of 2018, subject to certain conditions. Thereafter, he again filed another petition in Crl.M.P.No.4127 of 2018 seeking permission to go abroad. It was allowed by an order dated 09.01.2019 and the second respondent was permitted to leave from India for six months with advance notice to the 1st respondent police and he shall furnish property surety to the value of Rs.10,00,000/-.

4. The defacto complainant challenged the said order before this Court in Crl.O.P.No.1992 of 2019 and this Court directed the second respondent to return to India on or before 01.08.2019 and report before the first respondent on 02.08.2019 failing which the first respondent shall take appropriate action as against the second respondent. Even then, the second respondent did not return to India and he deliberately violated the order passed by this Court. Therefore, she prayed for cancellation of the bail granted to the second respondent.

5. Per contra, the learned counsel for the second respondent submitted that he got married with the petitioner and gave birth to a child. Thereafter, she divorced the second respondent and had gone to parents house, and she only initiated all the proceedings such as divorce petition and domestic complaint as against the second respondent.

6. Considering the above facts and circumstances, he was granted bail in Crl.M.P.No.3861 of 2018 by an order dated 06.12.2018. Thereafter, he filed application in Crl.M.P.No.4127 of 2018 seeking for permission to go abroad. Since, he was working at Dubai, he has to report to his employer. He was also permitted to go abroad. Again, the said order was challenged by the petitioner, in which, this Court directed the second respondent to return to India on or before 01.08.2019. Unfortunately, due to his employment, he could not return back to India as directed by this Court. However, the second respondent filed a petition before this Court for extension of time. Unfortunately, the petition for extension of time could not be numbered and it is pending in the SR stage itself. Therefore, he prayed for dismissal of the petition.

7. Heard, Mr. N.Manokaran, learned counsel for the petitioner, Mr. John Sathyan learned counsel appearing for the second respondent and Mr. L. Charles Prem Kumar, learned

Government Advocate (Crl.Side) appearing for the first respondent/state.

8. The learned Government Advocate (Crl.Side) submitted that on the complaint lodged by the petitioner, the first respondent registered a case in Crime No.20 of 2018 for the offences under Sections 498A, 313, 494 IPC. The second respondent was arrested on 29.11.2018 and he was released on bail by an order dated 06.12.2018. Thereafter, he also filed petition seeking permission to leave abroad for his job. It was challenged by the defacto complainant/petitioner before this Court and this Court directed the second respondent to return to India on or before 01.08.2019 and appear before the first respondent for interrogation. As directed by this Court, the second respondent did not return to India and did not comply with the condition imposed by this Court and the investigation is still pending. Though, the second respondent filed petition for extension of time it was not numbered and as such, the defacto complainant came forwarded with this petition to cancel the bail granted to the second respondent. While pending this petition, the second respondent returned to India and appeared before the first respondent for interrogation. It is also seen that the first respondent filed an application before the concerned Court seeking direction to conduct DNA test of the second respondent and the second accused to prove that the child was born to first and second accused in Crime No.20 of 2018 and it is pending. The accused persons are also attending the trial Court in the said application. Further this Court directed the second respondent to appear before the first respondent for interrogation.

9. Therefore, this Court is not inclined to cancel the bail granted to the second respondent. However, the second respondent is directed to appear before the first respondent for interrogation and he shall co-operate for interrogation and till completion of the investigation and filing final report, he shall not leave India. The first respondent is directed to complete the investigation within a period of three months and file final report from the date of receipt of a copy of this order in Crime No.20 of 2018.

10. With the above direction this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar (ADI (MDU))

//True copy//

Sub Assistant Registrar

mpa

To

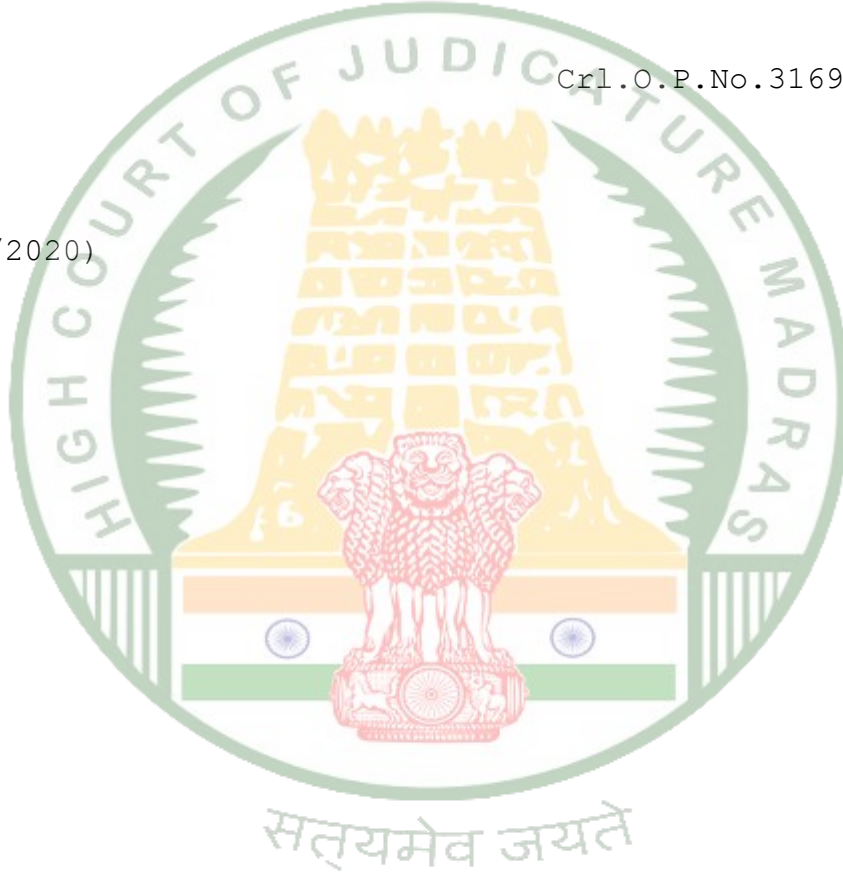
1.Additional Mahila Court,
Egmore, Chennai

2.The Inspector of Police,
W8 All Women Police Station,
Thirumangalam,
Chennai-600 037.

3.Public Prosecutor
High Court, Madras.

Cr1.O.P.No.31693 of 2019

SR(CO)
GMY(22/05/2020)



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