

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16565 of 2021
and
Crl.M.P.No. 9042 of 2021

R.Prakash,
S/o. Rajamani

... Petitioner

Versus

1. State rep. through the
Inspector of Police,
All Women Police Station,
Uthukkottai, Thiruvallur Dt.
(Crime No.7/2020)

2. Maragatham,
D/o.Raja

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of C.C.No.11 of 2020 on the file of District Munsif cum Judicial Magistrate, Uthukottai, Thiruvallur District and quash the charge sheet.

For Petitioner : Mr.V.Balamurugan

For Respondents : Mr.A.Damodaran,
Addl. Public Prosecutor for R1

ORDER

(This case has been heard through Video Conference)

The petitioner/accused in C.C.No.11 of 2020, who is facing trial under Section 420 of I.P.C. and Section 4 of Dowry Prohibition Act, 1961 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, has filed this petition.

2. The case of the prosecution is that on 04.02.2018 at about 11.00 p.m. the marriage engagement between the petitioner and the defacto complainant had taken place. Thereafter, on demand of Innova car as dowry, which lead to stoppage of the marriage. The defacto complainant's family was willing to give a Swift car, but the petitioner is a Police Constable and to his status, he needed only Innova car, which was unable to be given by the defacto complainant's family and hence, the marriage could not be solemnised.

3. The contention of the petitioner is that on perusal of complaint dated 07.07.2020 , it is seen that the complaint has been given nearly two years after the breakage of engagement. Further, the petitioner had already got married one R.Lavanya on 24.06.2020 and the marriage is also registered. After coming to know about the marriage, the complaint was lodged. Further, in the complaint, she wanted to get marriage to the petitioner, with whom, she was previously engaged, and after the marriage of the petitioner with the said Lavanya, which is legally impermissible. Further, for enforcing legally enforceable right, the case cannot be registered and proceeded with. The respondent police without considering all these facts filed the final report in this case. In this case, Section 420 of I.P.C. will not get attracted. This court, in the case of ***K.U.Prabhuraj Vs. All Women Police Station, Tambaram in Crl.O.P.No.1273 of 2011*** has held that false promise to marry would not attract Section 420 I.P.C. Further, he would submit that Section 420 is not attracted and other two offences on the point of limitation cannot be proceeded with.

4.The learned Additional Public Prosecutor would submit that in this case, on receipt of complaint from the defacto complainant, the case has been registered, investigation conducted, witnesses LW 1 to LW 11 cited the materials collected and filed the final report before the lower court on 05.11.2020 and taken cognizance of the case after going through the materials finding prima facie case. Thereafter, summons directed to be issued to the petitioner and immediately after receipt of summons, the petitioner approached this Court raising the points that Sec.420 will not get attracted on the above facts is not similar to this case, engagement was fixed, date of marriage fixed, invitation card printed and invitation cards were distributed. After distribution of invitation cards, the demand of Innova car was made and thereafter, the marriage was stopped. Further, the victim and their family members were threatened. In view of the same, the contention of the petitioner cannot be accepted. He would further submit that the points raised by the petitioner are factual in nature, which has to be considered during trial. Further, the petitioner is serving in Uniformed Service, being a police personnel, he should be the first person to follow the law, on the contrary, using his position, made an

unreasonable demand, abused the victim and also threatened her. In view of the same, he strongly objected.

5. Heard the submissions made on either side and perused the materials available on records carefully.

6. This Court on considering the submissions of both the petitioner and the learned Additional Public Prosecutor appearing for 1st respondent, finds that the petitioner is a police constable, engagement conducted, thereafter, marriage date fixed and marriage invitation printed and the same was distributed, few days before the marriage, it was called off by the petitioner's family demanding dowry of Innova car and further, the victim and her family were abused and threatened. Further, the statement of witnesses are in conformity with the case of prosecution. The points raised by the petitioner are the points to be decided during trial. Furthermore, the petitioner is a police constable serving in Uniformed Service cannot be lost sight of. In view of the same, this Court is not inclined to entertain this petition. Hence, this Criminal Original Petition is dismissed.

7. Considering the fact that the petitioner earlier filed quash of F.I.R. got dismissed. Now, after filing charge sheet, again the present quash petition is filed, which only show the petitioner's tendency to somehow delay the trial, drag on the proceedings. In view of the same and finding that there are only 12 witnesses to be examined, the Trial Court to complete the trial within a period of four months from the date of receipt of the copy of this order. If any dilatory tactics adopted, coercive action to be taken and to inform the same to the higher officials of the petitioner. Consequently, connected Criminal Miscellaneous Petition is closed.

24.09.2021

Index: Yes/No
Internet: Yes/No
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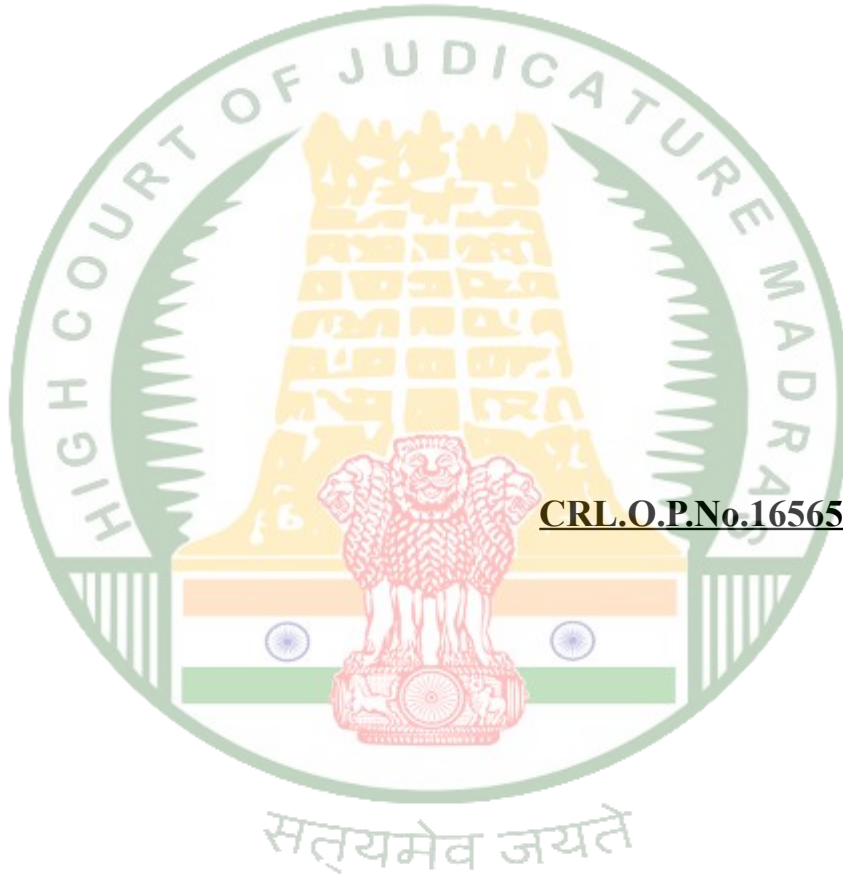
To

1. Inspector of Police,
All Women Police Station,
Uthukottai, Thiruvallur Dt.

2. The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

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