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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.22444 of 2021

A.Gowtham

... Petitioner

Versus

1. The Superintendent of Police,
Thiruvallur District,
Thiruvallur 602001.

2. The Inspector of Police,
All Women Police Station,
Gummidipoondi,
Thiruvallur District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the second respondent not to harass the petitioner and his parents in any manner on the complaint of K.Sivaranjini or otherwise by repeatedly calling them for enquiry in respect of the matrimonial dispute which is the subject matter in HMOP No.334 of 2021 pending on the file of Principal Subordinate Court, Ponneri.

For Petitioner : Mr.N.R.Anantha Rama Krishna

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This petition has been filed to direct the second respondent not to harass the petitioner and his parents in any manner on the complaint of K.Sivaranjini or otherwise by repeatedly calling them for enquiry in respect of the matrimonial dispute which is the subject matter in HMOP No.334 of 2021 pending on the file of Principal Subordinate Court, Ponneri.

2. The case of the petitioner are as follows:

(i) The petitioner is the estranged husband of one



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K.Sivaranjini. The marriage between them had taken place on 04.06.2017 and out of their wedlock, a male child was born to them. The petitioner along with said Sivaranjini used to reside in the ground floor and the petitioner's parents are residing in the first floor. The petitioner's wife was always struck to online media and when the petitioner questioned the same, no answer came from the petitioner. Further, the petitioner's estranged wife has close contact with several persons, which was objected to by the petitioner. In the meanwhile, his wife's sister had committed suicide, citing the said reason she frequently visited her parent's house. While being so, on 30.06.2021 at night hours she left the matrimonial home and later the petitioner found a letter written by Sivaranjini, wherein she has written that she is not willing to live with the petitioner. Thereafter, the petitioner lodged a complaint for girl missing on 01.07.2021 and thereafter her whereabouts were now known and a case in Crime No.277 of 2021 was registered against her. During the enquiry the police had found that the Sivaranjini had frequently called a particular mobile number and when the respondent police called that number, the same was attended by one Prem and admitted that Sivaranjini was in his custody. Thereafter, the respondent police directed him to appear for enquiry along with Sivaranjini.

(ii) On 11.07.2021, Sivaranjini appeared before the respondent police with one Puja, who claimed that she was the friend of Sivaranjini and the said Prem did not appear before the police. In the enquiry, the Sivaranjini openly declared that she is not willing to live with the petitioner and the custody of her son G.Rudresh can be retained by the petitioner and she agreed for filing divorce by mutual consent. Recording the said submission, the complaint was closed. Though a Memo of undertaking entered between them Sivaranjini failed to sign the same. In the mean time, the Sivaranjini filed a petition under Domestic Violence Act, before the District Collectorate, Thiruvallur against the petitioner, his parents and his Sister. The petitioner herein had filed HMOP.No.334 of 2021 against Sivaranjini for divorce.

(iii) Whiles, all of a sudden the second respondent called the petitioner to appear for enquiry on 19.11.2021, on the complaint given by one Sivaranjini against him and his parents in CSR.No.184 of 2021. Though the petitioner appeared for enquiry, the second respondent under the pretext of conducting enquiry has insisted the petitioner to handover the custody of three year old child G.Rudresh and when the same was resisted, the second respondent forced the petitioner to give undertaking letter that he would appear for enquiry on 24.11.2021 with his family and his Son Rudresh . Hence the petition.



2. The learned counsel appearing for the petitioner submitted that the matter pertains to Family Dispute and when the same was seized by the Subordinate Court, Ponneri, where the H.M.O.P is pending, the said Sivaranjini can work out her remedy before the said Court and not by way of complaint before the respondent police.

3. The learned Additional Public Prosecutor submitted that the petitioner's estranged wife lodged a complaint in CSR No.184 of 2021 citing that her three year old son Rudresh has been forcibly detained by the petitioner and for the welfare of the child, custody may be handed over to her. He also produced the copy of the complaint and the explanation of the petitioner produced before this Court.

4. Considering the submission of the petitioner as well as learned Additional Public Prosecutor it is seen that the said Sivaranjini left the matrimonial home on her own, which is evident by the letter left by her in the matrimonial home. Further, H.M.O.P. filed by the petitioner as well the petition filed under Domestic Violence Act is pending. In view of the same, the second respondent police shall not force the petitioner to give the custody of the child to the de-facto complainant, as both the father and mother are entitled for custody. If the de-facto complainant is aggrieved over the custody of the child, she can very well approach the Family Court by filing G.W.O.P.

5. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Superintendent of Police,
Thiruvallur District,
Thiruvallur 602001.



2. The Inspector of Police,
All Women Police Station,
Gummidipoondi,
Thiruvallur District.

3. The Public Prosecutor,
High Court, Madras.

+lcc to M/s.N.R.Anantha Rama Krishnan, Advocate, S.R.No.68076
(05/01/2022)

CRL.O.P.No.22444 of 2021

VBM(CO)
SU(22/12/2021)