

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.458 of 2017
and
Crl.MP.No.323 of 2017

D.Bharath

...Petitioner

.Vs.

State by

1.The Inspector of Police,
All Women Police Station,
Dharmapuri,
Dharmapuri District.

2.V.Kasthuri

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case pending in C.C.No.191 of 2016, on the file of the Judicial Magistrate No.I, Dharmapuri and quash the proceedings.

For Petitioner : Mrs.M.Malar
For Respondents : Mr.C.Raghavan
Government Advocate
for R 1
No Appearance for R 2

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.191 of 2016, pending on the file of the Judicial Magistrate No.I, Dharmapuri.

2.The 2nd respondent is the wife of the petitioner. They got married in the year 1999. There was a misunderstanding between the parties and divorce proceedings came to be initiated both by the petitioner and the respondent. The proceedings initiated by the respondent in HMOP No.17/2014, seeking for divorce was dismissed for default on 13.03.2015. The divorce proceedings initiated by the petitioner in HMOP No.83/2015, before the Family Court, Dharmapuri, was allowed and a decree was passed on 26.02.2016 dissolving the marriage between the petitioner and the 2nd respondent.

3.After this decree was passed, the 2nd respondent gave a complaint against the petitioner on 01.03.2016 and an

FIR came to be registered in Crime No.2/2016. On the completion of the investigation, a Final Report came to be laid before the Court below for an offense under Section 498 (A) and 506(i) IPC. Aggrieved by the same, the present petition was filed before this Court to quash the criminal proceedings.

4.Heard Mrs.M.Malar, learned counsel for petitioner and Mr.C.Raghavan, learned Government Advocate appearing for the 1st respondent. The 2nd respondent has been served with notice and her name has also been printed in the cause list. There is no appearance for the 2nd respondent either in person or through counsel.

5.The 2nd respondent is alleging certain acts of cruelty against the petitioner and she also filed a divorce petition against the petitioner in HMOP No.17/2014. The petitioner filed a counter in this petition and apart denying the allegations, agreed for granting the divorce in favour of the 2nd respondent. However, the 2nd respondent did not prosecute this divorce petition and it was dismissed for default.

6.The petitioner had filed a divorce petition against the 2nd respondent in HMOP No.83/2015 and the Family Court has allowed this petition and has dissolved the marriage between the petitioner and the 2nd respondent. It is brought to the notice of this Court that this order has become final. By virtue of this order, the husband and wife relationship between the petitioner and the 2nd respondent gets legally snapped. Thereafter, it will not be possible for the 2nd respondent to prosecute a complaint against the petitioner for the offense under Section 498(A) of IPC.

7.In the considered view of this Court, no useful purpose will be served in keeping the criminal proceedings pending since the marriage has been dissolved as early as in the year 2016 itself. The continuation of the proceedings against the petitioner will be an abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

8.In view of the above, this Court is inclined to interfere with the criminal proceedings pending in C.C.No.191 of 2016, on the file of the Judicial Magistrate No.I, Dharmapuri and the same is hereby quashed. This criminal original petition is accordingly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

KP

To

1.The Inspector of Police,
All Women Police Station,
Dharmapuri,
Dharmapuri District.

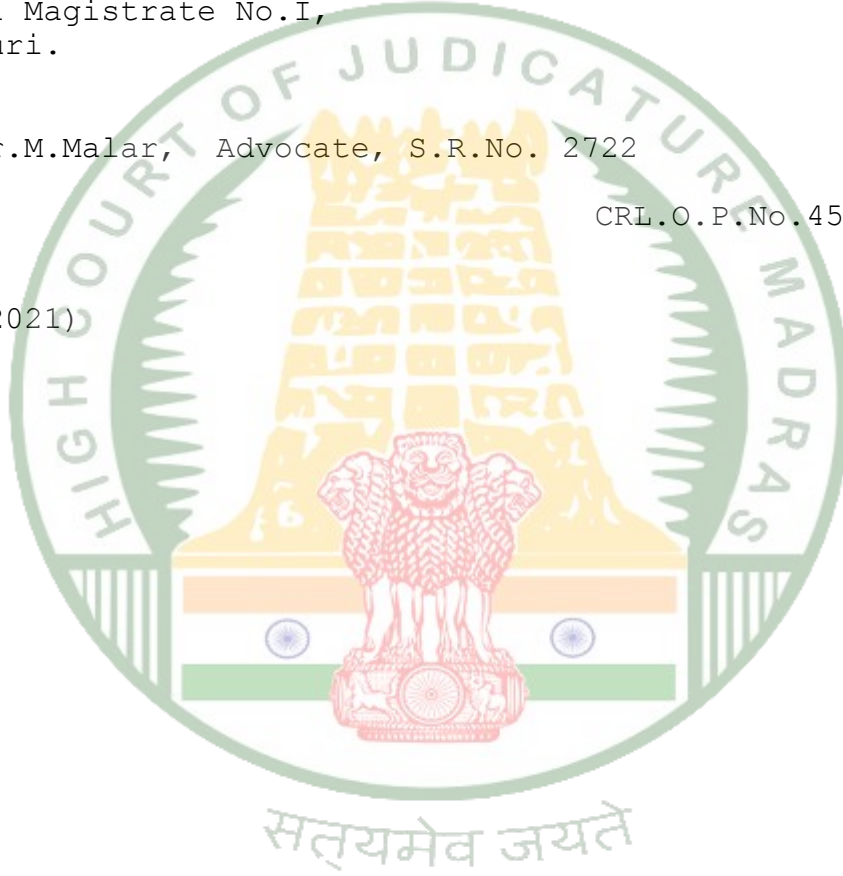
2.The Public Prosecutor,
High Court, Madras.

3.Judicial Magistrate No.I,
Dharmapuri.

+1cc to Mr.M.Malar, Advocate, S.R.No. 2722

CRL.O.P.No.458 of 2017

SVI (CO)
GN(10/02/2021)



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