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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14.07.2021

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.141 of 2021

and

Crl.MP(MD)No.1586 of 2021

Neela : Revision Petitioner/
De-facto Complainant

Vs.

- 1.State through
The Inspector of Police,
Fort All Women Police Station,
Tiruchirappalli. : 1st Respondent/Respondent/
Complainant
- 2.Ramkumar
3.Kalyani
4.Lakshmi Narayanan : R2 to R4/R2 to R4/
A1, A4 and A5

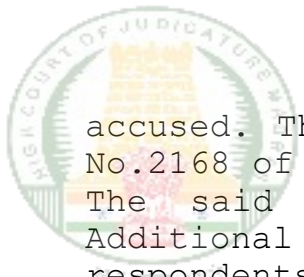
Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, to call for the records relating to the proceedings made in Crl.MP No.1541 of 2020 in CC No.2168 of 2019 on the file of the Judicial Magistrate, Additional Mahila Court, Tiruchirappalli and set aside the same.

For Revision Petitioner : Mr.Arun Jeyatram
For 1st Respondent : Mr.P.Kottaisamy
Counsel for State Government
(Criminal side)
For R2 to R4 : Mr.J.K.Jayaselan

O R D E R

This Criminal Revision is filed to set aside the proceedings made in Crl.MP No.1541 of 2020 in CC No.2168 of 2019 on the file of the Judicial Magistrate, Additional Mahila Court, Tiruchirappalli.

2.The petitioner herein is the de-fcto complainant and she made a complaint before the 1st respondent police on 01.06.2019 against the respondents 2 to 4 herein and 3 others, in Crime No.10 of 2019 under sections 498-A, 406, 506(ii) and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and section 4 of Dowry Prohibition Act. The respondents 2 to 4 herein have not obtained anticipatory bail. The 1st respondent police filed charge sheet in CC No.2168 of 2019 on the file of the Judicial Magistrate, Additional Mahila Court, Trichy. In the charge sheet filed by the 1st respondent, the respondents 2 to 4 are shown as absconding



accused. The respondents 2 to 4 filed CrI.MP No.1541 of 2020 in CC No.2168 of 2019 under section 70(2) of Cr.P.C to recall the warrant. The said application was allowed by the Judicial Magistrate, Additional Mahila Court, Trichy, on 26.11.2020 and directed the respondents 2 to 4 to file special affidavit within 15 days. However, the respondents 2 to 4 being the absconding accused had not filed any affidavit. Subsequently, the respondents 2 to 4 filed CrI.MP No.3 of 2021 in CC No.2168 of 2019 under section 205 of Cr.P.C., seeking dispense with their personal appearance. The said petition was allowed by the trial court and non-bailable warrant issued against the respondents 2 to 4 is recalled and 1st respondent police is directed to return un-executed non-bailable warrant forthwith. Challenging the said order, the petitioner is before this court.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. It is admitted fact that A1, A4 to A5 are in foreign country. The main contention of the petitioner/de-facto complainant is that the respondents/A1, A4 and A5 failed to comply the directions issued by the trial court and A1, A4, A5 have no intention to appear before the court and further, the order passed by the trial court is illegal and prays that it is liable to be quashed. But on the other hand, the learned counsel appearing for the respondents/A1, A4 and A5 submitted that the respondents/A1, A4 and A5 are in foreign country and due to pandemic situation, it is not possible for them to appear before the court and further, they filed petition under section 205 Cr.P.C and hence, their personal appearance is not necessary and the warrant against them may be recalled. For that, the learned counsel appearing for the respondents/A1, A4 and A5 relied upon the decision reported in **(i) (2016)2 MLJ (CrI) 490 (Dr.Zubodia Begum Vs. State rep. by the Inspector of Police, District Crime Branch, Kancheepuram); and (ii) 2016(1) LW (CrI) 506 (S.Sundar Vs. State by Inspector of Police).**

5. On perusal of the order passed by the learned Magistrate, the trial court directed that the appearance of A1, A4 and A5 is not necessary for recalling the warrant, but their appearance was necessary for receiving copies and for further proceedings. Hence, this court held that for recalling the warrant, the appearance of A1, A4 and A5 is not necessary, but for receiving copies and for further proceedings, if the trial court thinks fit, A1, A4 and A5 may be directed to appear before the trial court and further, they are directed to file the affidavit as ordered by the trial court.

6. In the result, this criminal revision is disposed of. The appearance of the respondents 2 to 4/A1, A4 and A5 is not necessary for recalling warrant, but for further proceedings, if the trial court thinks fit, A1, A4 and A5 may be directed to appear before the



trial court. Further, they are directed to file the affidavit as ordered by the trial court. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

- 1.The Judicial Magistrate,
Additional Mahila Court,
Trichy.
- 2.The Inspector of Police,
Fort All Women Police Station,
Tiruchirappalli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.RC (MD) No.141 of 2021
14.07.2021

LS (CO)
KB(26.07.2021) 3P 4C