



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

WEB COPY

W.P.(MD)No.10239 of 2021

Aabithabanu

...Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai District.

2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Karaikudi,
Sivagangai District.

3.The Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District.

4.Hanif Ibrahim Minhal
5.M.Noor Mohamed Meera
6.Sitty Marjan Jahannara
7.Habira Meharaj Minna
8.F.Aamin Minna
9.A.Frose Khan
10.Asraf Ali
11.M.Mohammed Iqbal

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the first respondent to transfer the investigation of the petitioner's complaint in C.S.R.No.253 of 2021 dated 01.06.2021 from the file of the third respondent to some other agencies, within the period as stipulated by this Court.

For Petitioners : Mr.A.Haja Mohideen

For R-1to R-3 : Mr.R.M.Anbunithi

Additional Public Prosecutor

ORDER

This petition has been filed seeking transfer of enquiry, which was registered in C.S.R.No.253 of 2021, from the file of the third respondent to some other agencies.

2. The case of the petitioner is that she married the fourth



respondent on 20.12.2015, as per the Muslim Religious Caste Customs. After that, they got one girl child and right from the marriage, she was harassed demanding dowry and other things. The compromise talk between the parties also failed. Because of the harassment, she gave a complaint before the third respondent on 31.05.2021. In pursuance of which, a case in Crime No.2 of 2019, was registered under Sections 498(A) 406, 506(i) of IPC. Later the fourth respondent pronounced Talaq for dissolving the marriage, which is also prohibited as per the Muslim Women (Protection of Rights on Marriage Act, 2019). Later, he also married the 8th respondent herein and registered the same on 23.06.2021, which is also against the law. In respect of which, she also lodged a complaint. In pursuance of which C.S.R.No.253/2021, dated 01.06.2021 was registered by the third respondent. But, there is no proper enquiry. The complaint is kept pending from 01.06.2021, without any progress. In these circumstances, this petition came to be filed seeking transfer of investigation.

3. When the matter came up for hearing, the learned Additional Public Prosecutor submits that the main allegation that has been levelled against the respondents is that they performed second marriage. Such an offence cannot be investigated by the police. The learned counsel appearing for the petitioner would submit that the Talaq pronounced by the 4th respondent is against the provisions of the Muslim Women (Protection of Rights on Marriage Act, 2019). But, perusal of the complaint shows that no averment has been made by the petitioner attracting the above said provisions.

4. The learned counsel for the petitioner seeks permission of this Court to file a fresh complaint by setting out proper facts and circumstances.

5. In the above said circumstances, permission is granted to the petitioner to make a fresh complaint setting out the proper facts and circumstances to the appropriate authority and if the same is presented, the same shall be considered on merits.

6. Since C.S.R.No.253 of 2021 is going to be closed, nothing survives in this matter for further consideration.

7. With the above said liberty, this Writ Petition is disposed of. No costs.

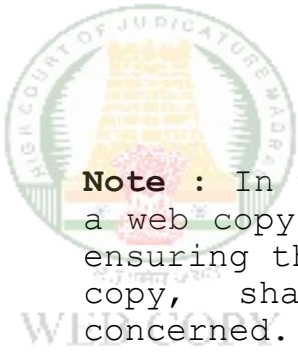
Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai District.
- 2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Karaikudi,
Sivagangai District.
- 3.The Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No.10239 of 2021
17.06.2021

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