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H.C.P. No.2134 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Orders Reserved on : 07.12.2022**  
**Pronouncing orders on : .12.2022**

**CORAM :**

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH**

**AND**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**H.C.P. No.2134 of 2022**

Smt.Shoba

... Petitioner

**Vs.**

The State represented by;

1.The Deputy Superintendent of Police,  
P.N. Palayam,  
Sub-Division, Coimbatore District.

2.The Inspector of Police  
All Women Police Station,  
Thudiyalur,  
Coimbatore District.  
(Crime No.70 of 2013)

3.Gomethagavel

4.Chinnasamy ... Respondents  
[R3 and R4 impleaded as per order dated 28.10.2022 in HCP No.2134 of 2022]

**Prayer** : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus, directing the respondents 1 and 2 produce the petitioner's husband Mr.Gomethagavel before this Court and set him

at liberty



H.C.P. No.2134 of 2022

For Petitioner : Mr.G.Rajagopalan  
Senior Counsel for  
Mr.P.Ayyachamy

For Respondent : Mr.R.Muniyapparaj  
Additional Public Prosecutor  
for R1 and R2

Mr.R.Rajarathinam for  
Mr.T.Balaji for R3

Mr.M.Guruprasad for  
Ms.Shase for R4

## **ORDER**

**N. ANAND VENKATESH, J.**

This Habeas Corpus Petition has been filed to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to produce the body of Gomethagavel, who is the husband of the petitioner, on the ground that he is intentionally evading appearance in the pending proceedings before the Judicial Magistrate, Additional Mahila Court, Coimbatore in C.C.No.27 of 2014.

2.The order passed by this Court on 28.11.2022 captures the background of this case and the various orders that were passed by this Court during the pendency of this petition. For proper understanding, the entire order passed on

28.11.2022 is extracted hereunder:

<https://www.mhc.tn.gov.in/judis>



WEB COPY On 14.11.2022, we passed a detailed order:

*"On 28.10.2022, we passed the following order:*

*"It is the case of the petitioner that she got married to Gomethagavel on 20.02.2012 and after marriage, she suffered cruelty at the hands of her husband and parents-in-law; therefore, she gave a complaint, based on which, a case in Crime No.70 of 2013 was registered and after completing the investigation, the police filed a charge sheet in C.C.No.27 of 2014 in the Additional Mahila Court (Magisterial Level), Coimbatore, for the offences under Sections 498-A and 506 (II) IPC against Gomethagavel and his family members.*

*2. Gomethagavel filed an application under Section 205 Cr.P.C. before the trial Court seeking exemption from appearance on the ground that he is in the United States of America (U.S.A.). Accordingly, by order dated 21.11.2015, the trial Court allowed the petition. However, it appears that a look out notice was issued against Gomethagavel even in the year 2014 and therefore, he filed Crl.O.P.No.930 of 2019 to recall the look out notice, which was allowed by this Court on 10.01.2019.*

*3. The petitioner also initiated proceedings in D.V.A.No.37 of 2014 against Gomethagavel and his family members under the Protection of Women from Domestic Violence Act, 2005, (for brevity "the DV Act") before the Judicial Magistrate Court No.I, Coimbatore, for quashing which, the family members of Gomethagavel approached this Court in Crl.O.P.No.11268 of 2017, which came to be allowed by this Court and the proceedings against them were quashed, but, the proceedings against Gomethagavel was directed to continue.*

*4. Gomethagavel filed a quash petition in Crl.O.P.No.23851 of 2019 to quash the proceedings under the DV Act, which was dismissed by a learned Single Judge of this Court on 13.05.2020. Gomethagavel also filed a petition in Crl.O.P.No.7818 of 2019 to quash the prosecution in C.C.No.27 of 2014, which was dismissed by a learned Single Judge of this Court on 14.12.2021.*



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5. Under such circumstances, the petitioner has filed the present habeas corpus petition seeking a direction to produce Gomethagavel before this Court or before the trial Court.

6. Under normal circumstances, we would have dismissed this habeas corpus petition on the short ground that Gomethagavel is not in illegal custody of the respondents herein. Even according to the petitioner, Gomethagavel is in the U.S.A. and he is not appearing before the trial Court either in C.C.No.27 of 2014 or in D.V.A.No.37 of 2014. Gomethagavel has not even come to the trial Court to receive the copies under Section 207 Cr.P.C.

7. It is seen that the Calendar Case is of the year 2014 and we are now in the year 2022. Thus, we suspect that Gomethagavel is doing everything within his means to avoid legal process by remaining in the U.S.

8. Therefore, we are of the opinion that Gomethagavel, S/o.Chinnasamy, shall be impleaded as third respondent in this case. Gomethagavel in his petition under Section 205 Cr.P.C. in C.M.P.No.5002 of 2022 in C.C.No.27 of 2014, has given the following address: “2 Tower, CTR, BLVDSTE 20200 East, Brinswick NJ 8816, USA”. However, it is reported that he is not available at the said address. His mobile number as well his e-mail address are also not available with the police. Therefore, we direct the learned Additional Mahila Judge (Magisterial Level), Coimbatore, to serve notice in this habeas corpus petition on Ms.Thenmozhi, learned counsel on record for Gomethagavel in C.C.No.27 of 2014 for hearing on 14.11.2022. The learned Additional Mahila Judge (Magisterial Level), Coimbatore, shall also send a report after serving notice on Ms.Thenmozhi, learned counsel on record for Gomethagavel in C.C.No.27 of 2014. If Gomethagavel wishes to appear before this Court in this habeas corpus petition via video conferencing, he may inform the same to Mr.R.Muniyapparaj, learned Additional Public Prosecutor in Mobile No.97909 47044) and thereafter, arrangements can be made through the Registry for his appearance via video conferencing.



9. We also implead the father of Gomethagavel viz. Chinnasamy, S/o.Marappan, Sri Rajalakshmi Apartment, B-Block, Rajalakshmi Colony, TVS Nagar, Edaiyarpalayam, Coimbatore, as fourth respondent in this petition.

Post the matter on 14.11.2022. Meanwhile, the Registry shall make necessary amendments in the cause title."

2. Pursuant to the above, the following persons are present before us today:

- (1) Mr.S.Thangamani, Special Sub-Inspector of Police, All Women Police Station, Thudiyalur Police Station [Mobile No.94422 21750].
- (2) Mr.Gomethagavel [third respondent herein] appeared before us via video conferencing from Richmond in the U.S.
- (3) Mr.Chinnasamy S/o.Marappan [fourth respondent herein] and father of Gomethagavel, who is aged 80 years.
- (4) Ms.Gomethagi, A4 in C.C.No.27 of 2014 on the file of Judicial Magistrate [Additional Mahila Court], Coimbatore.

3. Mr.T.Balaji, Advocate, has entered appearance for Mr.Gomethagavel [third respondent herein] and Mrs.R.Shase, Advocate, has entered appearance for Mr.Chinnasamy S/o.Marappan [fourth respondent herein].

4. Mr.R.Rajarathinam, learned counsel appearing for Mr.T.Balaji, learned counsel, placed strong reliance on the Video Conferencing Rules framed by this Court as well on the judgment of Supreme Court in **Basavraj R. Patil v. State of Karnataka [(2000) 8 SCC 740]** and contended that after his marriage to Shoba, Gomethagavel left for U.S. on 11.03.2012 and had lived with Shoba for hardly 19 days. Thereafter, Gomethagavel came to India on 14.12.2012 and again left for U.S. on 12.01.2013. Gomethagavel has not come to India thereafter. While Gomethagavel was in the U.S., Shoba lodged a complaint on 10.08.2013, based on which, a case in Arakkonam P.S.Crime No.13 of 2013 was registered on 10.08.2013 for offences u/s.498(A) and 506(ii) IPC against Gomethagavel and all of his family members. Gomethagavel was not arrested by the police during investigation. The case in Arakkonam P.S.Crime No.13 of 2013 was transferred for want of jurisdiction to All Women Police Station, Thudiyalur and was re-registered as Crime No.70 of 2013 on 31.12.2013. The Inspector of Police, All Women Police Station,



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*Thudiyalur, completed the investigation and has filed a charge sheet on 09.03.2014 in C.C.No.27 of 2014 for the offences u/s.498-A and 506(ii) IPC against Gomethagavel and ten others.*

*5. Mr.R.Rajaratnam, learned counsel, contended that Gomethagavel had not absconded either during investigation or after the Court had taken cognizance of the offence, but on account of his employment in the U.S., he is unable to come to India. Learned counsel further stated that Gomethagavel is willing to face the trial by appearing via video conferencing before the trial Court. At this juncture, Mr.R.Rajaratnam, learned counsel, brought to our notice certain disparaging acts that appear to have taken place in the trial Court in C.C.No.27 of 2014 on 14.03.2022. The learned Magistrate has passed the following docket order on 14.03.2022:*

*"Police present. Complainant present. A5 to A11 quashed. A2 to A4 present. A1 absent. When the matter is called during calling hours, Defecto complainants counsel present and represented that S 317 Cr.P.C. which is to be filed for A1 to be dismissed and directed this Court to issue warrant against A1 otherwise the judge has to face the consequences in a threatening manner. A senior counsel in the Court told Defacto complainants counsel that such representations are wrong and shall not be made. Defacto complainant counsel started shouting at that counsel also. In order to avoid the quarrel inside the court, the matter is passed over. When again the matter is called at 11.40 A.M, Complainant and counsel are absent. Petition for modification of earlier order and permission to appear through Video Conference filed by Defence side for A1. 317 Cr.P.C filed for A1 is allowed in CMP No./2022. Petitions are checked and taken to file in CMP No./2022 and CMP No./2022 and pending call on 16.03.2022."*

*6. Mr.R.Muniyapparaj, the learned Additional Public Prosecutor, appearing for respondents 1 and 2, brought to our notice that even in the affidavit filed by the petitioner in this petition, she has made disparaging allegations against the trial Court in paragraph No.11. For the sake of convenience, paragraph No.11 is extracted hereunder:*

*"11. In the above circumstances, the non-summoning of the petitioner's husband before court below in the above case, is*



*a collusive act of the respondents 1 & 2 with the above in laws of the petitioner herein. Further, the Learned Mahila Court Magistrate, Coimbatore also mindlessly receiving Sec.317 Cr.PC. petition, without any vakalats on his behalf. That be so it is very clear case of abuse of processes of law in the above case before court below, since it seems that the respondent police and the Magistrate have colluded with each other and that is why the reason appropriate steps to bring the "alleged absconding" husband of the petitioner to the court below."*

*7. Mr.P.Ayyachamy, the learned counsel for the petitioner, submitted that no such incident had taken place and that he, who had appeared for Shoba in the trial Court and had even sent a report to the Registrar of this Court in this connection.*

*8. We carefully considered the adjudication order of the learned Magistrate as well the averments in paragraph No.11 of the petitioner's affidavit.*

*9. We find prima facie materials to initiate action for criminal contempt under the Contempt of Courts Act against the counsel, who allegedly misbehaved with the Judicial Officer as well on the petitioner for making reckless allegations against a Judicial Officer in the present affidavit.*

*10. The Registry shall call for a report from the learned Judicial Magistrate, Mahila Court, Coimbatore, as to the name of the counsel, who had appeared for the petitioner/de facto complainant on 14.03.2022 for further action.*

*11. Mr.R.Rajarathinam, learned counsel, made one more startling submission. He submitted that Shoba has got married to Kuppili Shankara Rao and through him, a son was born to her on 13.12.2021 at the Military Hospital, Shillong. The birth has been registered as No.9/2022 on 05.01.2022 in the jurisdictional Register of Births and Deaths. Therefore, Mr.R.Rajarathinam, learned counsel, contended that the signature of Shoba in the Vakalath and in the affidavit dated 11.10.2022 differs, which only shows that she is not prosecuting this case and an invisible hand is behind this legal adventure.*



12. When this was brought to the notice of Mr.P.Ayyachamy, learned counsel, he denied the same. He also stated that Shoba is very much in Arakkonam, that she had not got married to Kuppli Shankara Rao nor delivered a baby on 13.12.2021, as alleged.

13. We direct either the third respondent or fourth respondent to file an affidavit in this regard so that an opportunity could be given to Shoba to either affirm or deny the same.

14. Learned counsel for the petitioner is directed to serve copies of the affidavit and petition and typed set of papers in the present petition to the learned counsel for the respondents 3 and 4. Similarly, the learned counsel for respondents 3 and 4 shall serve their counter affidavit and typed set of papers immediately on the learned counsel for the petitioner.

15. As stated in paragraph No.10 above, the Registry is directed to call for a report from the Judicial Officer, who was the Additional Mahila Judge (Magisterial Level), Coimbatore, on 14.03.2022 to send the name of the Advocate, who had not properly behaved in the Court in C.C.No.27 of 2014. Registry is directed to get the report immediately.

*Call on 28.11.2022."*

2. Today, Ms.J.Maareswari, WGRI – 1024, All Women Police Station, Thudiyalur [Mobile No.63823 01232], Mrs.Shoba, the petitioner and Mrs.Gomethagi, are physically present. Mr.Gomethagavel/third respondent, is present from the U.S. via video conferencing.

3. Pursuant to our order dated 14.11.2022, Chinnasamy [fourth respondent herein] has filed his sworn affidavit dated 24.11.2022 along with copies of supporting documents to show that Shoba got married to Kuppli Shankara Rao and through him, she



*has a son, who was born on 13.12.2021 at Military Hospital, Shillong.*

*4. When this Court put this to Shoba, she stated that unless her husband Gomethagavel comes to this Court, she would not answer the question posed by this Court.*

*5. We explained to her that it is she, who had come to this Court by filing this petition and she has a duty to answer the question that is put by this Court for the purpose of arriving at the truth.*

*6. A copy of the affidavit filed by Chinnasamy [fourth respondent herein] was served on Mr.P.Ayyachamy, the learned counsel for Shoba, who was also present in this Court.*

*7. As regards the counsel, who had not properly behaved in the proceedings in C.C.No.27 of 2014, before the Additional Mahila Court [Magisterial Level], Coimbatore, a report dated 24.11.2022 has been received from the present Judicial Officer, who has stated that one Ms.N.Thilageswari, was the Judicial Officer of the said Court on 14.03.2022.*

*8. Registry is directed to get a report from Ms.N.Thilageswari, Civil Judge, as to the name of the counsel, who did not properly behave in the Court on 14.03.2022, while she was holding the post of Additional Mahila Court [Magisterial Level], Coimbatore.*



9. *Mr.P.Ayyachamy, the learned counsel for Shoba, submitted that he has engaged a senior.*

*Call on 30.11.2022. We also give a further opportunity to Shoba [petitioner] to give reply to the affidavit dated 24.11.2022 filed by Chinnasamy [fourth respondent].*

3. This case once again came up for hearing on 30.11.2022 and the following order was passed by this Court:

*On 28.11.2022, we passed a detailed order. There are two dimensions in this case, to wit (1) whether the petitioner has come to this Court with clean hands for granting the relief prayed for by her in this petition; (2) whether Mr.P.Ayyachamy, learned counsel for the petitioner, had behaved in an improper way on 14.03.2022 before the Additional Mahila Court [Magisterial Level], Coimbatore.*

2. *We heard Mr.G.Rajagopalan, learned Senior Counsel appearing for Mr.P.Ayyachamy, learned counsel on record for Shoba [petitioner]. We also heard Mr.R.Rajarathinam, learned counsel appearing for Mr.T.Balaji, learned counsel on record for the third respondent.*

3. *The third respondent appeared via video conferencing.*

4. *As regards the first dimension, Chinnasamy [fourth*



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*respondent herein] has filed an affidavit dated 24.11.2022 along with copies of supporting documents to show that Shoba [petitioner] is married to one Kuppili Shankara Rao and through him, she has a son, who was born on 13.12.2021 at the Military Hospital, Shillong. Even on the previous hearing date [28.11.2022], a copy of this affidavit was served on Shoba [petitioner] and her response was sought.*

*5. Mr.G.Rajagopalan, learned Senior Counsel, submitted that if sometime is granted, Shoba [petitioner] would file an affidavit in this regard.*

*6. As regards the second dimension, Mr.G.Rajagopalan, learned Senior Counsel, refuted the allegation that Mr.P.Ayyachamy, learned counsel, had not properly conducted himself before the Additional Mahila Court [Magisterial Level], Coimbatore, on 14.03.2022.*

*7. The adjudication of the Additional Mahila Court [Magisterial Level], Coimbatore, passed in C.C.No.27 of 2014 dated 14.03.2022, which is in public domain, reads as follows:*

*"Police present. Complainant present. A5 to A11 quashed. A2 to A4 present. A1 absent. When the matter is called during calling hours, Defecto complainants counsel present and represented that S 317 Cr.P.C. which is to be filed for A1 to be dismissed and directed this Court to issue warrant against A1 otherwise the judge has to face the consequences in a threatening manner. A senior counsel in the Court fold Defacto complainants counsel that such representations are wrong and shall not be made. Defacto complainant counsel started*



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shouting at that counsel also. In order to avoid the quarrel inside the court, the matter is passed over. When again the matter is called at 11.40 A.M, Complainant and counsel are absent. Petition for modification of earlier order and permission to appear through Video Conference filed by Defence side for A1. 317 Cr.P.C filed for A1 is allowed in CMP No./2022. Petitions are checked and taken to file in CMP No./2022 and CMP No./2022 and pending call on 16.03.2022."

*8. It is not in dispute that the Advocate referred to in the adjudication is Mr.P.Ayyachamy, but, in any event, pursuant to our order, Ms.N.Thilageswari, Judicial Magistrate, who was the Judicial Officer on 14.03.2022 in the Additional Mahila Court [Magisterial Level], Coimbatore and passed the adjudication on that date, has sent a report dated 29.11.2022 stating that the Advocate was Mr.P.Ayyachamy.*

*9. From the adjudication, we find that there are prima facie materials to initiate criminal contempt action against Mr.P.Ayyachamy under the Contempt of Courts Act, 1971. Accordingly, we take cognizance of criminal contempt u/s.2(c)(i), (ii) and (iii) r/w Section 15 of the Contempt of Courts Act, 1971, on our own motion against Mr.P.Ayyachamy, for the conduct he had displayed before the learned Additional Mahila Judge [Magisterial Level], Coimbatore, as set out in her adjudication order dated 14.03.2022, which has been extracted above, as we have been assigned 'Criminal Contempt' subject in the roster.*

*10. An opportunity should be given to Mr.P.Ayyachamy, Advocate, to file his reply affidavit to the aforesaid charges.*



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*11. We direct the Registry to register a suo motu criminal contempt petition against Mr.P.Ayyachamy, Advocate [Enrl.No.310/1990] and post the matter before the Bench, which has criminal contempt roster.*

*Coming to the request of Mr.G.Rajagopalan, learned Senior Counsel, seeking time to file reply affidavit of Shoba [petitioner], the matter is adjn. to 07.12.2022.*

4.Pursuant to the above order, this Habeas Corpus Petition and the *suo moto* Criminal Contempt Petition came up for hearing today. We have passed separate adjudication orders in the Contempt Petition and the same will be dealt with independently, in accordance with law. Insofar as this petition is concerned, the petitioner has filed a reply affidavit for the affidavit that was filed by the 4<sup>th</sup> respondent Chinnasamy, making certain serious allegations against the petitioner. The petitioner has reiterated her original grievance against the 3<sup>rd</sup> respondent and the fact that the 3<sup>rd</sup> respondent is absconding and not appearing before the Court. Insofar as the allegation made against the petitioner regarding her marriage with one Kuppili Shankara Rao and begetting a son through that marriage, which was specifically alleged by the 4<sup>th</sup> respondent in his affidavit filed on 24.11.2022, the petitioner in the reply affidavit has stated as follows:



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*“9. I submit that the sole purpose of filing the above HCP to make 3<sup>rd</sup> respondent appear before the criminal court. I submit that the averments made in para 5 of the affidavit by the 4<sup>th</sup> respondent is totally irrelevant to the present proceedings and I am not required to answer the same.”*

5. We Heard Mr.G.Rajagopalan, learned Senior Counsel appearing on behalf of the petitioner, Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2, Mr.R.Rajarathinam, learned counsel appearing on behalf of the 3<sup>rd</sup> respondents and Mr.M.Guruprasad, learned counsel appearing on behalf of the 4<sup>th</sup> respondent. Mr.Gomethagavel (3<sup>rd</sup> respondent herein) appeared before us via Video Conferencing from Richmond in the United States, during the hearing.

6. On a conspectus of the overall facts, the following events unfold:

- The marriage between the petitioner and the 3<sup>rd</sup> respondent took place on 20.02.2012 and the 3<sup>rd</sup> respondent left to USA on 11.03.2012 and the petitioner joined duty at Uttar Pradesh (in the Army) on 14.03.2012. The petitioner and the 3<sup>rd</sup> respondent once again briefly met during December



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2012 and the 3<sup>rd</sup> respondent left to USA on 12.01.2013.

- The 3<sup>rd</sup> respondent initiated divorce proceedings in I.D.O.P. No.235 of 2013 in the year 2013 and it was dismissed for non-prosecution.
- The petitioner gave a police complaint on 10.08.2013 before the AWPS, Arakkonam and an FIR came to be registered in Crime No.13 of 2013 against the 3<sup>rd</sup> respondent and 10 others (all family members).
- The FIR came to be transferred to the file of AWPS, Thudiyalur, Coimbatore during August 2013 and it was renumbered as Crime No.70 of 2013.
- The investigation was taken up and the final report came to be filed against 11 accused persons for offence under Section 498A and Section 506 (ii) of IPC before the Judicial Magistrate Court No.1, Coimbatore. The 3<sup>rd</sup> respondent (A1) was shown as an absconding accused. The final report was taken on file in C.C.No.27 of 2014 and it is pending before the Additional Mahila Court (Magistrate level), Coimbatore.
- The 3<sup>rd</sup> respondent filed C.M.P.No.662 of 2015 under Section 205 of Cr.P.C. to grant exemption from personal appearance and to permit him to be represented by an Advocate. This petition came to be allowed by an order dated 21.11.2015. By virtue of this order, the 3<sup>rd</sup> respondent was directed to appear at the stage of receiving the copies under Section 207 of Cr.P.C., for



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answering the charges, at the time of questioning under Section 313 of Cr.P.C. and at the time of pronouncing the judgment.

- CrI.OP.No.13293 of 2015 was filed by A10 and A11 to quash the criminal proceedings, CrI.OP.No.4520 of 2015 was filed by A5 to quash the criminal proceedings, CrI.OP.No.28963 of 2018 was filed by A7 to quash the criminal proceedings, CrI.OP.No.116 of 2019 was filed by A8 and A9 to quash the criminal proceedings, CrI.OP.No.11267 of 2017 was filed by A6 to quash the criminal proceedings and all these petitions were allowed and by virtue of the same, the criminal proceedings in C.C.No.27 of 2014 came to be quashed as against A5 to A11. The criminal proceedings in C.C.No.27 of 2014 is now faced by A1 to A4 (Husband, father-in-law, mother-in-law and sister-in-law).
- The 3<sup>rd</sup> respondent filed CrI.OP.No.930 of 2019 for a direction to the concerned authority to withdraw the lookout notice that was issued against him in Crime No.70 of 2013. This petition came to be allowed through an order dated 10.1.2019. While passing this order, this Court took note of the order passed by the learned Magistrate granting exemption from personal appearance to the 3<sup>rd</sup> respondent in C.M.P.No.662 of 2015.
- The petitioner filed a separate private complaint before Judicial Magistrate Court No.1, Coimbatore in C.C.No.916 of 2020 against 12 persons



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(including A5 to A11 against whom the earlier proceedings were quashed).

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The learned Magistrate has taken cognizance of this complaint on 06.03.2020 for offence under Sections 498A, 451, 452, 453, 380 read with 34 of IPC. The quash petition that was filed in CrI.OP.No.3143 of 2021 by three of the accused persons came to be dismissed by this Court through order dated 27.10.2022. Yet another petition has been filed in CrI.OP.No.3689 of 2021 by other accused persons and the same has been entertained and stay of the proceedings in C.C.No.916 of 2020 has been granted and this petition is pending.

- The petitioner initiated D.V.C.No.377 of 2019 under the Domestic Violence Act before the Chief Judicial Magistrate, Coimbatore against the 3<sup>rd</sup> respondent and his family members and this petition came to be dismissed for non-prosecution on 28.02.2022. It is stated that steps have been taken to restore the petition. It is relevant to mention here that a report was filed by the Protection Officer as early as in the year 2014 (01.12.2014), wherein it has been clearly stated that there is no material to substantiate the allegation of domestic violence against the 3<sup>rd</sup> respondent.
- The 3<sup>rd</sup> respondent has initiated divorce proceedings on 24.03.2021 in D.O.P.No.1595 of 2021 through his sister, against the petitioner for dissolution of marriage and the same is pending on the file of the Family



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Court, Coimbatore.

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7. A marriage which hardly sustained for a few days in the year 2012, has given rise to a variety of proceedings and it is quite painful to notice that the parties have kept themselves busy for the last 8 years only to attend Court proceedings. This case is an indication as to how the institution of marriage which does not work out between the parties, can make the life of both the families miserable and make them spend a part of their life in attending to Court proceedings. At some time in the future, when the petitioner and the 3<sup>rd</sup> respondent look back at their life, they will realise the futility of the entire exercise that is being carried out in the name of criminal cases and Court proceedings and it will be too late for them to get back the essential part of life which will stand lost forever.

8. The 4<sup>th</sup> respondent has filed a sworn affidavit before this Court specifically alleging that the petitioner has once again married and has given birth to a son. The relevant materials were also placed before this Court. The petitioner

in reply to the affidavit filed by the 4<sup>th</sup> respondent, has refused to answer this



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allegation on the ground that it is irrelevant. During the course of hearing, we repeatedly asked the learned Senior Counsel appearing on behalf of the petitioner regarding the conduct of the petitioner and the learned Senior Counsel submitted that the petitioner need not provide any answer for the allegation made against her. Curiously, the petitioner has not denied the allegation made by the 4<sup>th</sup> respondent. The petitioner has approached this Court seeking for a relief and she was duty bound to answer the question that was put by this Court for the purpose of arriving at the truth. Since the petitioner has refused to either affirm or deny the allegation, we can only draw an adverse inference against the petitioner that she has married one Kuppili Shankara Rao and through him, she has a son who was born on 13.12.2021 at Military Hospital, Shillong.

9.It was also brought to our notice that some efforts were taken to settle the dispute by making a monetary compensation to the petitioner. The 3<sup>rd</sup> respondent was willing to give a sum of Rs.50 Lakhs to the petitioner and it is informed to us that the petitioner was demanding in Crores. Alas, the institution of marriage touched the nadir when it is reduced to the level of money transaction/settlement. The parties were not able to arrive at an agreed figure and hence, the agony is going to continue. In a business transaction or a money transaction, there can be some objective basis on which a final amount can be arrived at. It is beyond our



comprehension as to how such a final figure can be arrived between the parties to a marriage. Unfortunately, when this process takes place, there is a group which gets interested on the monetary aspect and to make quick money and hence, the final decision is not actually taken by the husband and wife, but by the group in whose grips they are caught.

10. In the light of the above discussion, we are inclined to dispose of this Habeas Corpus Petition by issuing the following directions:

- a) The Judicial Magistrate, Additional Mahila Court, Coimbatore is directed to dispose of C.C.No.27 of 2014 within a period of six months from the date of receipt of copy of this order.
- b) The appearance of the 3<sup>rd</sup> respondent (A1) shall be dispensed with and he shall be permitted to be represented by an Advocate throughout the proceedings including receipt of copies under Section 207 of Cr.P.C., and answering charges which will also extend at the time of questioning under Section 313 of Cr.P.C. and the Court below shall take note of the judgment of the Apex Court in ***TGN Kumar vs. State of Kerala and others*** reported in ***(2011) 2 SCC 772*** and shall appear before the Court below in C.C.No.27 of 2014 at the time of passing the judgment and order.
- c) The appearance of A2 to A4 shall also be dispensed with and they shall be



H.C.P. No.2134 of 2022

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permitted to be represented through Advocate/s throughout the proceedings and A2 to A4 shall appear before the Court below in C.C.No.27 of 2014 at the time of questioning under Section 313 of Cr.P.C. and at the time of passing the judgment and order.

- d) If during the course of proceedings, the Court below requires the appearance of the 3<sup>rd</sup> respondent (A1), the 3<sup>rd</sup> respondent (A1) shall appear via Video Conferencing without fail and
- e) The Court below shall fix specific dates for trial and the examination of the witnesses (Chief and cross examination) shall be completed without any break and A1 to A4 will not question the identity of any witness.

**(P.N.P.,J.) (N.A.V.,J.)**  
**.12.2022**

Internet : Yes

Index : Yes/No

Speaking order /Non-Speaking order  
ssr

To

- 1.The Deputy Superintendent of Police,  
P.N. Palayam, Sub-Division, Coimbatore District.
- 2.The Inspector of Police  
All Women Police Station,  
Thudiyalur, Coimbatore District.



H.C.P. No.2134 of 2022

3. The Public Prosecutor,  
High Court of Madras.

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4. The Judicial Magistrate,  
Additional Mahila Court,  
Coimbatore (C.C.No.27 of 2014)