



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL OP(MD) . No.4631 of 2022

WEB COPY

1. Jedidiah Benhur Margoschis

2. Stephen Thomas Daniel

3. Kanmani

....Petitioners

Vs

1. The Inspector of Police,
All Women Police Station,
Aruppukottai.

2. Praisy Jeyaleela

....Respondents

PRAYER :- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the same in Crime No.5 of 2020 dated 28.2.2020 on the file of Respondent Police.

For Petitioners : Mr.B.Asha

For Respondent : Mr.B.Thanga Aravindh

Government Advocate (Criminal Side)
for R1

: Mr.R.J.Karthick for R2

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.5 of 2020 dated 28.2.2020, on the file of the first Respondent Police.

2.In this case, there are totally three accused, in which, petitioners are arrayed as A1 to A3. The second respondent lodged a complaint, alleging that she got married to the first petitioner herein on 23.08.2014. Due to their wedlock, they gave a birth to a female child. Thereafter, due to misunderstandings, they got separated and the first petitioner now living in United States of America. The petitioners also harassed the second respondent herein and demanded huge dowry. Thereafter, the first petitioner filed a divorce petition in I.D.O.P.No.81 of 2017, before the Family Court, Madurai and the second respondent filed a petition for restitution of conjugal rights in I.D.O.P.No.85 of 2017, before the Family Court, Madurai. The second respondent also filed a Domestic Violence Petition in D.V.O.P.No.30 of 2019 on the file of Mahila Court, Madurai.



3.While that being so, there was settlement between the first petitioner and the second respondent and accordingly the second respondent filed a memo before the Family Court, Madurai. In the said memo, she also undertook to withdraw the cases, filed against the first petitioner and his family members. In view of the above settlement, the restitution of conjugal rights petition filed by the second respondent was dismissed as withdrawn. However, the second respondent failed to withdraw the case filed by her, in Crime No.5 of 2020 on the file of the first respondent.

4.The learned counsel for the second respondent submitted that the first petitioner had agreed to pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) towards yearly maintenance to his minor daughter, till her attainment of majority. At the same time, the second respondent also agrees to withdraw the domestic violence complaint pending on the file of Mahila Court, Madurai. However, the learned counsel for the petitioners would submit that the second respondent failed to withdraw the domestic violence as well as the impugned FIR. The only apprehension raised by the second respondent is that if the FIR quashed, the first petitioner will not pay the yearly maintenance of Rs.1,00,000/- (Rupees One Lakh Only) to their minor daughter, since he is residing in abroad and he will never come back to India.

5.In view of the above submission and as per the memo filed by the second respondent, the pendency of FIR is clear process of abuse of law and it is liable to be quashed.

6.Accordingly, this Criminal Original Petition is allowed and the impugned FIR in crime No.5 of 2020, on the file of the first respondent is hereby quashed. However, the first petitioner shall pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) as yearly maintenance to his minor daughter, viz., Cathy Lorraine, till her attainment of majority, by way of deposit, failing which, the second respondent is at liberty to revive the FIR in Crime No.5 of 2020 on the file of the first respondent, for further proceedings.

Sd/-

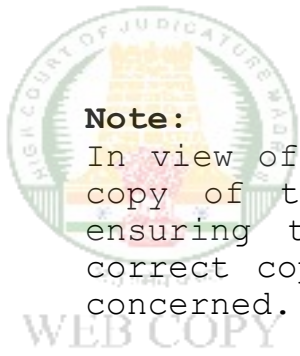
Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

PNM



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 Inspector of Police,
All Women Police Station,
Aruppukottai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL OP(MD) . No.4631 of 2022

Date : 30/03/2022

RK(20/04/2022) 3P 3C