



Crl.O.P.No.25825 of 2023

Crl.O.P.No.25825 of 2023
and Crl.M.P.No.18445 of 2023

C.V.KARTHIKEYAN, J.

The petitioner is A1 in Crime.No.11 of 2022, registered by the respondent police for the offences punishable under Sections 406, 509, 498(A), 323 & 506(i) of IPC and Sections 3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, seeks bail.

2.The petitioner herein was the husband of the defacto complainant. It is contended that the petitioner and the defacto complainant had got married on 20.12.2015 and they were staying together and later, had gone abroad and in the year 2021. They appear to have had marital differences and the defacto complainant had come back to this country. One of the reason for the marital discard was that the petitioner, apparently had granted divorce to his own wife by typing the words 'Talaq' three times and sending it to her through Whatsapp. The said issuance of Talaq in that particular manner is illegal, void and non-est in the eye of law. The issue is no longer *res integra* and had been settled by the Constitution Bench of the Hon'ble Supreme Court in the



Crl.O.P.No.25825 of 2023

Judgment reported in **2017 9 SCC 1** in the case of ***Shayara Bano Vs.***

WEB COPY

Union of India and Others, and connected writ petitions.

3.The constitution Bench of the Supreme Court of India had held as follows:

".....practice of Triple Talaq is manifestly arbitrary in the sense that the marital tie can be broken capriciously and whimsically by a Muslim man without any attempt at reconciliation so as to save it. This form of talaq must, therefore, be held to be violative of the fundamental right contained under Art.14 of the Constitution (which falls in Pt.III), Therefore, the 1937 Act, insofar as it seeks to recognise and enforce Triple Talaq, is within the meaning of the expression "laws in force" in Art.13(1) of the Constitution and must be struck down as being void to the extent that it recognises and enforces Triple Talaq."

4.It is also alleged by the learned counsel for the defacto



WEB COPY

complainant/intervenor that the mother of the defacto complainant had transferred a sum of Rs.13/- lakhs towards demand of about Rs.25/- lakhs as dowry and the defacto complainant had also handed over 45 sovereigns of gold to the petitioner herein. It is no wonder that the petitioner did not have the courage to face the defacto complainant in a Court of law and he rather pronounced Talaq through Whatsapp hiding behind the cell phone and he is not available and residing in a foreign country.

5.It is also stated that he had also contracted in relationship with the second lady.

6.It is stated that since he did not appear, a look out notice had been issued and thereafter he had been taken into custody. These facts speaks volumes of the petitioner herein and do not advance his case or inspire confidence before this Court that he would continuously appear during the course of trial. As a matter of fact, the defacto complainant had filed O.S.No.64 of 2023 before the III Additional Family Court,



Crl.O.P.No.25825 of 2023

WEB COPY

Chennai, and the petitioner herein had again screened himself away from appearing before the judicial process and had remained ex-parte and an ex-parte decree of divorce had been granted on 13.09.2023. He had deliberately avoided the judicial process since if he had appeared then the issue of alimony, maintenance and return of jewels and dowry would have been issues to be discussed during the course of such judicial process. Therefore, the petitioner herein had been extremely careful to ensure that he is not put to any financial liability towards the defacto complainant. He must face the trial.

7.With these above observations, this Criminal Original Petition stands dismissed. Connected Criminal Miscellaneous Petition/Intervening Petition is also closed.

23.11.2023

(1/2)

rjr/ata

C.V.KARTHIKEYAN, J.



WEB COPY



Crl.O.P.No.25825 of 2023

rjr

Crl.O.P.No.25825 of 2023
and Crl.M.P.No.18445 of 2023

23.11.2023
(1/2)