



Crl.R.C(MD)No.43 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.43 of 2019

Azeela @ Mary

... Petitioner/Petitioner/
Accused

Vs.

1.State represented by,
The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

(Crime No.126 of 2018). ... 1st Respondent/Respondent/
Complainant

2.Joseph @ Yousf

... 2nd Respondent/Respondent/
Defacto Complainant

PRAYER: Criminal Revision Case filed under Section 397(1) r/w 401 of the Code of Criminal Procedure, to call for the records in Cr.M.P.No.8672 of 2018 on the file of the learned Judicial Magistrate No.II, Thanjavur, Thanjavur District and set aside the order dated 03.12.2018 and handover the custody of the properties which had detailed in Form 95 produced by the first respondent herein and inventorised in the search list, which has been seized by the first respondent herein in Crime No.126 of 2018.



WEB COPY



Crl.R.C(MD)No.43 of 2019

For Petitioner : Mr.K.Veilmuthu
For R – 1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Criminal Side)
For R – 2 : Mr.T.S.Mohammed Mohideen

ORDER

This revision has been filed as against the order passed in Cr.M.P.No.8672 of 2018 on the file of the learned Judicial Magistrate No.II, Thanjavur, Thanjavur District, thereby dismissed the petition filed for the return of the properties.

2.The petitioner is one of the accused in Crime No.126 of 2018 on the complaint lodged by the second respondent registered for the offences under Sections 379, 380, 406, 506(ii), 120-B and 34 of I.P.C. There are totally three accused. The allegation in the said complaint is that the second respondent got married to the petitioner on 14.05.2004. It was a love marriage. Due to their wedlock, they gave birth to two children. The second respondent had avocation at abroad. His entire salary was sent to the petitioner, and she had purchased household articles and so many jewels. At that juncture, she had illegal intimacy with Accused Nos.2 and 3. In fact, they also instigated the petitioner in order to do away with the life of the second respondent. However, he



CrI.R.C(MD)No.43 of 2019

escaped and lodged the complaint. In pursuant to the registration of F.I.R, the properties were seized from the petitioner and deposited in the Court. While pending investigation, the petitioner filed a petition in Cr.M.P.No.8672 of 2018 on the file of the learned Judicial Magistrate No.II, Thanjavur for return of property. However, the said petition was dismissed. Aggrieved by the same, the petitioner filed the present revision.

3.The learned counsel appearing for the second respondent would submit that the second respondent died in the year 2020 itself.

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

5.Admittedly, the petitioner and her two children are the legal heirs of the deceased second respondent. The father and mother of the second respondent already died, and the second respondent had no other legal heirs except the petitioner and his two children.



Crl.R.C(MD)No.43 of 2019

6.On perusal of the records also revealed that the properties which were recovered from the petitioner are all household properties in the year 2018. Keeping the property in the custody of the Court would not serve any purpose, since all are household articles and if they are not under usage, all the household articles would become non-use.

7.Considering the above facts and circumstances, the order passed in Cr.M.P.No.8672 of 2018 on the file of the learned Judicial Magistrate No.II, Thanjavur, Thanjavur District, is liable to be set aside.

8.Accordingly, this Criminal Revision Case is allowed and the order passed in Cr.M.P.No.8672 of 2018 on the file of the learned Judicial Magistrate No.II, Thanjavur, Thanjavur District, is set aside. The trial Court is directed to return the household articles, after taking the photographs of the same.

12.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes



WEB COPY



Crl.R.C(MD)No.43 of 2019

To

- 1.The Judicial Magistrate No.II,
Thanjavur,
Thanjavur District.
- 2.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.



WEB COPY



Crl.R.C(MD)No.43 of 2019

G.K.ILANTHIRAIYAN, J.

ps

Order made in
Crl.R.C(MD)No.43 of 2019

12.06.2023