



Reserved on 19.07.2024	Pronounced on 26.07.2024
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Crl.M.P.No.9752 of 2024
in Crl.O.P.No.13915 of 2024

K.KUMARESH BABU,J.

The present petition had been filed seeking to modify the condition that had been imposed by this Court in Crl.O.P.No.13915 of 2024 in so far had imposed a condition to provide blood surety.

2. The case of the petitioner is that she is the wife of one Gnanashanmugam and that the said Gnanashanmugam had executed a Will in favour of her. Further, one Kathirvelu claiming to be purchaser of the property from the said Gnanashanmugam by forged documents, had also sold the property in favour of third parties. One P.R.Sowmiya claiming to be the wife of Gnanashanmugam had also lodged a complaint against said Kathirvelu, based upon which a charge sheet had also been filed. To quash the said charge sheet, the said Kathirvelu had filed an application in Crl.O.P.No.15821 of 2022 in which the said alleged *de-facto* complainant had also sought to implead herself. When the petitioner had come to know about the rival claims of them as against the claim of the petitioner, she had



Crl.M.P.No.9752 of 2024

also sought to implead herself in the said quash petition. The learned Judge of this Court having found that there were two claims, claiming to be the wife of the said Gnanashanmugam had directed the transfer of investigation from the City Crime Branch to the CBCID. Thereafter, the respondent herein had apprehended the petitioner.

3. The further case of the petitioner is that after the death of the said Gnanashanmugam, she had been in live-in relationship with one Fathima Kulandai Raj. The petitioner would also submit that there are no blood relatives to her and therefore, she would seek indulgence of this Court to modify the condition imposed by this Court by permitting her to create any other surety other than blood relatives.

4. The claim of the petitioner had been stoutly opposed by Mr.L.Baskaran, learned Government Advocate (Criminal side) claiming that the petitioner had filed this petition by suppressing the material facts. He would submit that the petitioner had been charged with for impersonating as one Sowmiya to be the wife of one Gnanashanmugam. He would submit that the investigation has revealed that the wife of Gnanashanmugam was one



Crl.M.P.No.9752 of 2024

Kamala and not Sowmiya. He would further submit that the petitioner is the wife of Fathima Kulandai Raj and they had also begotten two children one male and one female. By placing reliance upon the confession statement made by the petitioner before the Police, he would submit that the petitioner has categorically stated that she has one male and female children. When that being so, he had contended that the petition deserves to be dismissed.

5. After hearing the parties on 05.07.2024, I had directed the petitioner to produce the birth certificates of the so called son and daughter to substantiate that she is not the biological mother of the children. The prosecution was also directed to summon both of them and to call upon them by issuing summons for production of birth certificate.

6. When the matter was taken up on 12.07.2024, it was submitted by the learned counsel for the petitioner that they are not able to trace the certificate and the learned Government Advocate (Criminal side) would submit that inspite of summons sent to them, the children of the petitioner had failed to appear before the respondents and infact the daughter gave threat of committing suicide if they are further called upon to attend the enquiry.



Crl.M.P.No.9752 of 2024

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7. But, however, at the request of the learned counsel for the petitioner, the same is listed today. Today the learned counsel for the petitioner had produced an Identity card of the petitioner, an extract from the Register of Baptism issued by St.Michael's Church, Coimbatore and the Transfer Certificate of the alleged son. The Transfer Certificate would be of no purpose as the same do not contain the name of the mother. The Baptism Certificate indicates that the name of the child who was baptized was one Eugene Praveen Raj, whose father name was recorded as S.Fathima Kulandai Raj and mother name as Fatima Christy. It is the case of the prosecution that the said Fathima Christy had impersonated herself as one Sowmiya, wife of Gnanashanmugam and had made a claim to the property based upon a Will. It is also the case of the prosecution that during the course of investigation, the petitioner had admitted to be only the wife of Fathima Kulanthai Raj having two children including Eugene Pravin Raj.

8. The learned counsel for the petitioner had vehemently relied upon the identity card issued by the Election Commission of India to claim that she is the wife of Gnanashanmugam. It is to be noted that the said identity card had been issued by the Election Commission on 12.02.2013.



Crl.M.P.No.9752 of 2024

Eventhough, I had queried upon the learned counsel for the petitioner whether they had any documents to show that the said G.Sowmiya was wife of Gnanashanmugam which was available during the lifetime of Gnanashanmugam, no such documents had been produced by the petitioner.

9. The allegations against the petitioner is that a serious offence of impersonation for grabbing the property of one Gnanashanmugam. If it is the case of the petitioner that the said Gnanashanmugam had executed a Will in her favour, there has been no answer by the petitioner as to why she had not acted upon the Will that had been allegedly executed by her husband till 2023. Even assuming that the claim of the petitioner is to be true that she has no blood relatives, the petition is bereft of any material facts, such as giving any parental lineage of the petitioner nor any documents to support her claim had been filed. It is true that there could be no documentary evidence to support a non existing fact, but it is for the petitioner to substantiate atleast by producing any documents about her lineage to claim that she has no blood relatives.

10. In such an event, I do not find any reasons to modify the order as prayed for by the petitioner and in fine, the Petition is dismissed.



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Crl.M.P.No.9752 of 2024

26.07.2024

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A Pre-delivery order made in

CrI.M.P.No.9752 of 2024
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Crl.M.P.No.9752 of 2024

26.07.2024