



Crl. R.C. Nos.1368, 1384 and 1385 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM:

THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

Crl. R.C. Nos.1368, 1384 and 1385 of 2024 and
Crl.M.P.No.11646 of 2024

Rajkumar

... Petitioner in all petitions

vs.

1. State Rep. by
Inspector of Police,
Oomangalam P.S.,
Cuddalore District.
(Crime No.39 of 2016)

2. Jayanthi

... Respondents in all petitions

(R2 impleaded as per order dated 03.10.2024
in Crl. M.P. No.13870 of 2024
in Crl. R.C.No.1368 of 2024,
Crl. M.P. No.13871 of 2024
in Crl. R.C.No.1384 of 2024
Crl. M.P. No.13872 of 2024
in Crl. R.C.No.1385 of 2024)

Common Prayer: Criminal Revision Petitions filed under Section 397 and 401 of Cr.P.C. to set aside the orders dated 02.08.2024 in Crl. M.P.Nos.1388, 1216 and 1370 of 2024 on the file of the District Munsif Cum Judicial Magistrate, Neyveli, Cuddalore District.



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For Petitioner in all petitions : Mr.R.Baskar

For Respondents in all petitions : Mr.J.Chandran for R1

Ms.D.E.Anisree Sangavi
for R2

COMMON ORDER

These petitions have been filed, challenging the common order passed in Crl.M.P. Nos.1388, 1370 and 1216 of 2024 dated 02.08.2024.

2.The case of the petitioner is that he had completed M.Tech. and working in abroad for the past 16 years. He got married with the second respondent on 20.08.2015 and they lived a peaceful matrimonial life initially. Subsequently, due to the adamant nature of the second respondent, the matrimonial harmony got disturbed and she had also abused the petitioner and his mother and later, she left the matrimonial home and used to stay in her parental home. Based on a false complaint dated 03.12.2015, lodged by his wife before the learned Judicial Magistrate, Neyveli under Section 200 of Cr.P.C., a case in Crime No.39 of 2016 under Sections 143, 323, 294 (b), 324, 406 and 417 of I.P.C. r/w. Section 4 of Tamil Nadu Prohibition of Women Harrassment Act was registered against the petitioner. Subsequently, the petitioner's wife had filed a petition H.M.O.P. No.84 of 2017 on the file of the Sub Court,



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Jeyamkondam seeking divorce and also filed a case in D.V.C. No.3 of 2017 on the file of the Judicial Magistrate, Jeyamkondam making false allegations against him. Since the petitioner was working in abroad and no notice served on him, the wife of the petitioner got exparte decree dated 26.07.2017 in the above H.M.O.P. and in the said D.V.C., the petitioner appeared, contested and an award was passed granting a sum of Rs.3,00,000/- towards compensation, payable by the petitioner to his wife. As ordered by the said Court, the above sum of Rs. 3,00,000/- was paid by the petitioner and all the stridhana articles returned by him. Further, on 14.05.2024, when he returned from abroad, he was arrested and remanded to judicial custody since LOC was issued against him. Thereafter, he obtained bail vide order dated 07.06.2024 passed by this Court in Crl.O.P No.13285 of 2024. But, the passport of the petitioner in Passport No. N1400496 detained by the police and produced before the court concerned. Since the LOC is still pending prohibiting travel affecting his Fundamental Right of travel, without serving any notice prior to issuance of LOC, petitioner filed two petitions Crl.M.P. No.1216 of 2024 seeking permission to go abroad and Crl.M.P. No.1370 of 2024 seeking direction to hand over the passport, which is in the custody of the first respondent, before the learned District Munsif cum Judicial



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Magistrate, Neyveli, Cuddalore District. While the above petitions filed by the petitioner were pending consideration before the Lower Court, the first respondent police filed a petition in Crl.M.P. No.1388 of 2024 seeking direction to impound the passport by the Passport Authorities. The petition filed by the petitioner dismissed by the learned District Munsif cum Judicial Magistrate, Neyveli, Cuddalore. The Judicial Magistrate by Crl.M.P. No.1388 of 2024 directed the Regional Passport Authority, Chennai to commence proceedings for impounding the passport. Hence, the petitioner is before this Court.

3.The case of the prosecution is that a case was registered against the petitioner/accused in Crime No. 39 of 2016 under Sections 294(b), 323, 324, 341, 498(A), 406, 417 r/w 4 TNPWH Act in Oomangalam Police Station, based on the complaint given by the petitioner's wife Jayanthi before the learned Judicial Magistrate, Neyveli under Section 200 of Cr.P.C. The petitioner/accused is A3 in the said case, but the petitioner/accused was keeping away from investigation since he was working in abroad. Even whenever the accused came to his native place, he keeps himself away from investigation. Thereafter, the first respondent, through the Superintendent of Police, had issued Look Out Circular (LOC) to the immigration authority. On 14.05.2024, the



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petitioner/accused was detained by the Immigration Authorities, who informed the respondent police, the petitioner was arrested and remanded to judicial custody. Further, when the accused was in custody, after obtaining order from the Trial Court, he was produced for potency test. Due to non-co-operation of the petitioner/accused, potency test not completed and therefore, the investigation could not be completed. According to the prosecution, if the petitioner/accused was allowed to have free access, he would again get absconded and the case would be kept pending. Therefore, the petitioner's passport to be impounded by the competent authority.

4.Learned counsel for the petitioner submitted that exparte decree of divorce dated 26.07.2017 passed in H.M.O.P. No.84 of 2017 by the Sub Court, Jeyamkondam was due to the adamant act of the second respondent, who had left the matrimonial life long back, the separation has become final and the marriage, between the petitioner and the second respondent broke irrevocable and no more exist.

5.Learned Additional Public Prosecutor would submit that after completion of investigation, charge sheet filed against the petitioner, his father, mother and brother arraying as A1 to A4 for offences under Sections 143, 323, 294 (b), 324, 406 and 417 of I.P.C. r/w. Section 4 of



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TNPWH Act. Learned Additional Public Prosecutor fairly submitted that now the matrimonial dispute resolved. As regards the relief sought for in the DVC, the conditions have been complied with by the petitioner by paying Rs.3,50,000/- towards compensation and maintenance to the second respondent. The respondent police have no objection to return the passport, remove the travel restriction and permit the petitioner to have free passage of travel since now the issued got resolved between the petitioner and the 2nd respondent.

6.Learned counsel for the second respondent would submit that compromise was arrived at between the petitioner and the second respondent and that now she is willing to withdraw the cases filed not only against the petitioner also against the petitioner's parents and brother. The only apprehension of the second respondent is that the petitioner not to exert any pressure directly or through others and not to cause any harm both physically and mentally to her in any manner in future.

7.The petitioner, who is present before this Court, undertakes that he will not trouble the second respondent in any manner as apprehended by the second respondent. The petitioner categorically confirmed that no



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such threat in any manner was exhorted by him till date.

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8. Since all the petitions namely, Crl.M.P. No.1216 of 2024 seeking permission to go abroad and Crl.M.P. No.1370 of 2024 seeking direction to hand over the passport, filed by the petitioner and Crl.M.P. No.1388 of 2024 seeking a direction to the competent authority to initiate necessary steps to impound the passport of the petitioner and the orders passed by the Lower Court in the above petitions, revolve around the removal of LOC, return of passport and permission for travel abroad, without all restrictions, petitions are heard and disposed of together.

9. The sum and substance of the case is that on 03.11.2015, after a quarrel with the petitioner, the second respondent lodged a complaint in All Women Police Station, Neyveli for dowry harassment and for that reason, she left the matrimonial home. During enquiry, she withdrew the complaint and undertook to live with the petitioner. But, her relatives were not ready for the compromise and they demanded back all the "Sridhana articles", from the petitioner on 23.11.2015. At that time, the second respondent gave an affidavit confirming that she would not lodge any criminal complaint against the petitioner and therefore, the matter got resolved. Despite the same, the second respondent filed a private



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complaint under Section 200 of Cr.P.C. on 03.12.2015 to register a case under Section 156(3) Cr.P.C., and the said complaint was forwarded to the respondent police, based on which, a criminal case in Crime No.39 of 2016 was registered on 25.03.2016. The second respondent filed a Domestic Violence Case in D.V.C. No.3 of 2017 before the Judicial Magistrate, Jayamkondam and filed a divorce petition in H.M.O.P. No.84 of 2017 and she got *exparte* decree of divorce dated 26.07.2017. The petitioner had appeared in the DVC case and contested the DVC proceedings and an award of compensation of Rs.3,00,000/- was ordered to be paid to the second respondent on 20.11.2018 and the said amount paid by the petitioner and continued to pay the monthly maintenance and thereafter, the petitioner used to visit his parents house and returned to his work abroad. While so, on 14.05.2024, when returned from abroad the petitioner was detained at the immigration and he was arrested and remanded to judicial custody by executing NBW. The petitioner came out on bail vide order dated 07.06.2024 in Crl.O.P.No.13285 of 2024 on the file of this Court. Further, when the petitioner was in custody, after obtaining order from the Trial Court, he was produced for taking potency test. But he refused for the same stating the reason that he was working in Electrical Division in the hottest country, Dubai and he was under



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depression and due to the remand in judicial custody. Hence, refused to participate in the potency test.

10.Since the first respondent through the Superintendent of Police had issued Look Out Circular to the immigration authority and the petitioner's passport directed to be impounded by the competent authority, the petitioner filed two petitions namely, Crl.M.P. No.1216 of 2024 seeking permission to go abroad and Crl.M.P. No.1370 of 2024 seeking direction to hand over the passport and the first respondent also filed a petition in Crl.M.P. No.1388 of 2024 seeking a direction to the competent authority to initiate necessary steps to impound the passport of the petitioner. Challenging the dismissal order passed in Crl.M.P. Nos.1216 and 1370 of 2024, filed by the petitioner and the order passed in Crl.M.P. No.1388 of 2024, filed by the first respondent, the petitioner is before this Court by filing these petitions.

11.It is seen now a Joint Memorandum of Compromise dated 19.10.2024, entered into between the petitioner and the second respondent, and filed before this Court. As per the Compromise, the petitioner made payment of Rs.16,50,000/- through various demand



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drafts drawn in favour of the second respondent towards full and final settlement to clear all the litigations between the petitioner and the second respondent, earlier petitioner paid Rs.3,50,000/- to the second respondent as compensation, as awarded in D.V.C. No.3 of 2017 and also paid monthly maintenance of Rs.50,000/- in two instalments. In pursuance of the above payments and receipt of the above compensation amount of Rs.16,50,000/-, the second respondent agreed to withdraw the proceedings in STC No.347 of 2023 on the file of the Judicial Magistrate, Jayamkondam and agreed to co-operate in quash proceedings initiated by the petitioner and also agreed for quash of the proceedings for FIR in Crime No.39 of 2016.

12.Considering the fact that the criminal proceedings and the DVC proceedings are not only faced by the petitioner and also his family members despite the issue revolves between the petitioner and the second respondent and also on the fact that both the petitioner and the second respondent arrived at a final settlement by way of a Joint Memorandum of Compromise dated 19.10.2024 and entire case is on a outbreak of the matrimonial dispute, which has now got resolved amicably, this Court is inclined to set aside the order passed by the District Munsif Cum Judicial



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Magistrate, Neyveli, Cuddalore District in Crl.M.P. Nos.1388, 1370 and 1216 of 2024 and the same are hereby set aside.

13.The Trial Court is directed to handover the passport of the petitioner and the respondent police through the Superintendent of Police, inform the Passport and Immigration Authorities forthwith about the closure of all cases against the petitioner and 2nd respondent. Accordingly, the Immigration authority is directed to remove the travel restriction without any delay, Passport Authorities not to initiate any proceedings to impound the petitioner's Passport.

14.In view of the above direction and observation, the cases in D.V.C. No.3 of 2017 and S.T.C. No.347 of 2023, pending on the file of the Judicial Magistrate, Jeyamkondam are hereby closed not only against the petitioner, but also against all the accused and respondents, who are family members of the petitioner, who are similarly placed as of the petitioner, since nothing further survives for adjudication. Consequently, cognizance taken in C.C. No.118 of 2024 by the Judicial Magistrate, Neyveli, is set aside.



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15. Since the second respondent is willing to withdraw all the cases pending against the petitioner and his family members, the petitioner and his family members are discharged from all the cases.

16. Learned Additional Public Prosecutor submits that this order may be marked to the Passport Authority and Immigration Authority, Chennai so as to enable them to withdraw the impounding proceedings and to ensure withdrawal of LOC, by the Immigration Authorities without further delay.

17. With the above direction and observation, these petitions are allowed. Consequently, connected miscellaneous petition is closed.

28.10.2024

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

Note: Issue Order Copy on 22.11.2024.

To

1. The District Munsif Cum Judicial Magistrate,
Neyveli, Cuddalore District.

2. The Inspector of Police,



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Oomangalam Police Station,
Cuddalore District.

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- 3.The Public Prosecutor,
Madras High Court, Chennai.
- 4.The Regional Passport Authority,
Chennai.
5. The Chief Immigration Officer,
Bureau of Immigration, Shastri Bhawan,
Haddows Road, Nungambakkam
Chennai – 6.
- 6.The Superintendent of Police,
Cuddalore District.



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M. NIRMAL KUMAR, J.

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