



Crl.O.P.No.27296 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.27296 of 2022
and
Crl.M.P.Nos.16778 & 16777 of 2022

R.Medona

... Petitioner

Vs.

1.The State of Tamil Nadu Rep by its,
Inspector of Police,
District Crime Branch,
Nilgiris.
Crime No.5 of 2021

2. Sankaranarayanan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.90 of 2022 pending on the file of the Judicial Magistrate, Udthagamandalam and quash the same.

For Petitioner

: M/s.Selvi George

For R1

: Mr.S.Vinoth Kumar

Government Advocate (Crl.Side)

O R D E R

This petition has been filed to quash the proceedings in C.C.No.90 of 2022 pending on the file of the Judicial Magistrate, Udthagamandalam as against the petitioner, having been taken cognizance for the offence under



Crl.O.P.No.27296 of 2022

Sections 420 & 177 IPC.

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2. The case of the prosecution is that the petitioner herein is the original wife of one Mahendran, who was worked as an Assistant in the Tamil Nadu Forest Department and unfortunately he died on 16.11.2013 while in service. The petitioner / accused got re-married with another man but suppressing the remarriage and received the 1st husband's pension from 2013 onwards. Therefore by giving false information she misappropriated the funds. Hence the complaint.

3. The learned counsel for the petitioner submitted that due to the family circumstances during the year 2017 the petitioner was forced to remarry one Kanagarajan, a widower who was aged about 60 years. Thereafter, due to difference of opinion they get divorce mutually in SMOP.No.15 of 2020 before the learned Family Judge, Thiruvallur, out of mental stress and due to her family circumstances the petitioner not able to inform the Authorities concerned and she lived with her minor daughter only with the help of family pension.

4. The learned Government Advocate (Crl. Side) appearing for the 1st



Crl.O.P.No.27296 of 2022

respondents submitted that the petitioner / accused got minor daughter and she got married in the year 2020. At the time of death of said Magendran, was leaving his wife and minor daughter as his legal heirs. He further submitted that his pension was utilized by wife of the deceased and his minor daughter. The petitioner got re-married to another man but suppressing the remarriage she had received her 1st husband's pension from 2013 onwards. Based upon the complaint given by the Treasury Officer, Nilgiris FIR has been lodged in Crime No.5 of 2021 under Section 420 and 177 of IPC and accordingly, final report was filed in C.C.No.90 of 2022 on the file of the Judicial Magistrate, Udagamandalam.

5. Considering the submissions made by both side counsels, and the prosecution also admits that the petitioner had a minor daughter and she got married in the year 2020, but at the time of death of Magendran he lived with his wife and daughter. After the death of Magendran, the petitioner and her minor daughter utilized his pension benefits. Law also permits the minor daughter to enjoy the pension benefits of her father until she gets married. In this case, after the death of her father the minor daughter is enjoying the pension benefits and in the pension papers also the name of the minor



Crl.O.P.No.27296 of 2022

daughter Monisha and her date of birth 03.12.1996 were mentioned. At the time of death of Magendran, the minor daughter is aged about only 17 years and subsequently, she got married in the year 2020. Minor daughter also eligible for the pension until 2020. However, the petitioner filed a Writ Petition challenging the recovery order in W.P.No.25543 of 2021, which is pending before this Court, subject to the out come, she is entitled to get the benefits of the pension. At this stage this Court also finds that the petitioner was a widow, now she got married to another man, but she has also maintained her minor daughter.

6. Considering the above facts and circumstances, this Court directs the petitioner to pay her share of 50 % of the pension amount i.e., for a sum of Rs.4,50,000/- in C.C.No.90 of 2022, on the file of the Judicial Magistrate, Udhagamandalam. On such deposit, this Court is inclined to quash the proceedings in C.C.No.90 of 2022 against the petitioner. Liberty is granted to the petitioner to take all the defence in the Writ Petition, through which she challenges the proceedings of the repayment.



Crl.O.P.No.27296 of 2022

7. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected Miscellaneous petitions are closed.

8. For reporting compliance, post the case on 25.03.2024.

04.03.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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To

1.The Inspector of Police,
District Crime Branch,
Nilgiris.
Crime No.5 of 2021

2.The Public Prosecutor,
High Court of Madras.

3.The Judicial Magistrate,
Udhagamandalam.

T.V.THAMILSELVI, J.



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