

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 31.08.2009

CORAM

THE HONOURABLE MR. JUSTICE S.J.MUKHOPADHAYA

W.P. NO. 13675 OF 2009

Swetha Bathu

.. Petitioner

- Vs -

1. Tamil Nadu State Women's Commission
rep. by its Chairperson
Old Agricultural Buildings
Chepauk, Chennai - 5.
2. The Assistant Commissioner of Police
South, Guindy P.S.
Chennai 600 032.
3. Inspector of Police
All Women's Police Station
Guindy, Chennai - 32.
4. Gomathi
5. Sadasivam Naveen Senthoooran .. Respondents

Writ Petition filed for the issuance of a writ of certiorarified mandamus to call for the records relating to Na.Ka.No.2522/M.A./2008 dated 16th June, 2009, on the file of the 1st respondent and quash the same and forbear the 1st respondent from interfering with the investigation of Crime No.5/08 on the file of the 3rd respondent and direct the 2nd and 3rd respondent to investigate the same without any interference from the 1st respondent.

For Petitioner : Ms. Geetha Ramaseshan

For Respondents: Mr. D.Sreenivasan, AGP for RR-2 & 3
Mr. Mathi for R-1
Mr. Tholkappian for RR-4 & 5

ORDER

The petitioner, Swetha Bathu, wife of 5th respondent, filed the writ petition against the order contained in Proceeding No. Na.Ka. No.2522/M.A./2008 dated 16th June, 2009, passed by the 1st respondent, Tamil Nadu State Women's Commission, Chennai. By the said interim order, the police authorities were ordered not to take any steps pursuant to Crime No.5/08, instituted by the petitioner

against the 4th and 5th respondents. This was challenged on the ground that the Women's Commission has no jurisdiction to stay any criminal proceeding.

2. Earlier, when the case was taken up, learned counsel appearing on behalf of the Tamil State Women's Commission, while submitted that the Commission may not have power to stay a criminal proceeding, but taking into consideration the fact that this was an internal dispute of a family in which criminal case lodged by the daughter-in-law (petitioner herein) against the mother-in-law (4th respondent herein) and husband of the petitioner (5th respondent herein), the Commission thought to discuss the matter with the parties to settle the dispute.

Counsel appearing on behalf of the petitioner and the counsel for the 4th and 5th respondent both suggested to take up the matter in the chamber to ensure some amicable settlement between the parties. The matter was discussed individually with the petitioner, Swetha Bathu (wife of the 5th respondent and daughter-in-law of the 4th respondent), her parents as also the 4th respondent (mother-in-law of the petitioner) and 5th respondent (husband of the petitioner). It was brought to the notice of the Court that apart from a divorce petition filed by 5th respondent in the Principal Subordinate Court, Erode, number of criminal cases and complaints have been filed by either parties. This Court played the role of a mediator and pointed out the advantage and disadvantages of one or other case and allowed the parties to decide their course of action without giving any suggestion to either of them. After discussing the matter, the parties suggested for the following consent order :-

i) The divorce case H.M.O.P. No.152/08 filed by the Mr.Sadasivam Naveen Senthoooran shall be treated as a petition u/s 13-B of the Hindu Marriage Act, 1955, i.e., divorce by mutual consent. Ms.Swetha Bathu will be shown therein as the 2nd petitioner and put her signature in the said divorce petition.

ii) All the allegations made in the divorce petition or written statement, if any, filed by the parties against each other shall stand recalled.

iii) The Court will record their statement that there is no scope for reunion of both the petitioners (Mr.Sadasivam Naveen Senthoooran and Ms.Swetha Bathu) and, therefore, they have preferred the joint petition for divorce by mutual consent for dissolution of marriage between them on 31st Oct., 2004 and it has become impossible to reconcile their differences and that they are unable to live together as men and wife and that the marriage has broken down irretrievably.

iv) Mr.Sadasivam Naveen Senthoooran undertakes to pay a lumpsum amount of Rs.3,00,000/= (Rupees Three Lakhs only) for the maintenance of Ms.Swetha Bathu, who will be the 2nd petitioner in the petition u/s 13-B. No separate interim or final alimony shall be paid except the aforesaid lumpsum amount of Rs.3,00,000/= (Rupees Three Lakhs only).

v) Both the parties, Ms.Swetha Bathu and Mr.Sadasivam Naveen Senthoran exchanged their articles and there is no claim against each other in any form in future.

vi) The Court will be requested to pass a judgment and decree in terms with such agreement.

vii) So far as the criminal and other complaints are concerned, the parties agree to file application before the competent court, police station and authorities to recall their respective applications and allegations. This includes Crime No.5/08 preferred by Ms.Swetha Bathu pending before the All Womens Police Station, Guindy and the complaint filed by the flat owners association and any other such case. In such case the concerned court/ police station/authority will pass order closing the case and/or applications. However, details of all the cases are not given herein, but liberty is given to the parties to bring to the notice of the competent authority/police station/court about any of the cases instituted or pending at the instance of the petitioner or the 4th and 5th respondent or their relations. In such case also, the concerned court/police station/authority will close those matters.

3. The aforesaid agreement reached between the parties have been read over by the parties, who have also made an endorsement to the said effect in the petition.

Accordingly, the Principal Subordinate Court, Erode, where the H.M.O.P. No.152/08 is pending, is directed to convert the petition as a petition u/s 13-B and after impleading the petitioner, Ms.Swetha Bathu, as the 2nd petitioner of the said case will pass judgment and decree in terms with the agreement aforesaid. The appropriate court, police station or authority before whom one or other complaint is pending, including income tax department will close their respective cases, if any, instituted at the instance of the petitioner or the 4th and 5th respondent or at the instance of any of the relation of the petitioner or the 4th and 5th respondent. However, suo motu if any case has been instituted by the Income Tax Department or any other authority, against either of the parties or the parents of the petitioner, that may proceed in accordance with law. The Tamil Nadu State Women's Commission will also close representation filed by the 4th respondent recording the agreement reached by the parties before this Court.

4. This writ petition stands disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petition is also closed. But there shall be no order as to costs.

GLN

Sd/-

Asst. Registrar

//True Copy//

Sub Asst. Registrar

To

1. The Principal Subordinate Judge, Erode.

2. The Chairperson
Tamil Nadu State Women's Commission
Old Agricultural Buildings
Chepauk, Chennai - 5.

3. The Assistant Commissioner of Police
South, Guindy P.S.
Chennai 600 032.

4. The Inspector of Police
All Women's Police Station
Guindy, Chennai - 32.

+ 1 cc to Mr. R. Tholkappian, Advocate SR No.43269

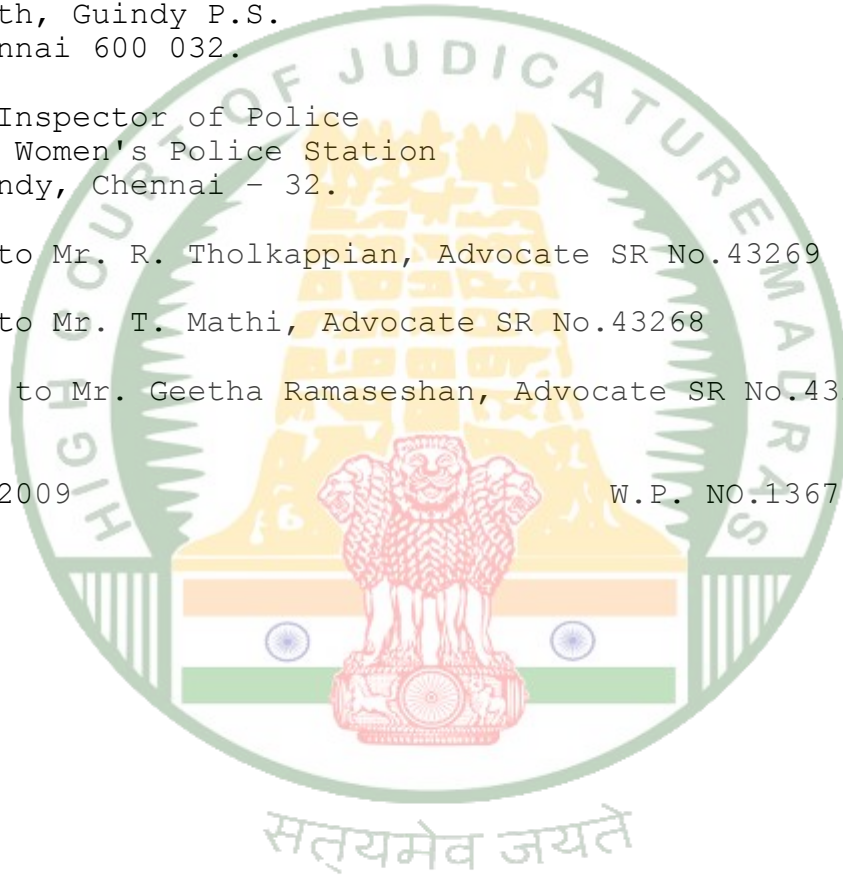
+ 1 cc to Mr. T. Mathi, Advocate SR No.43268

+ 3 ccs to Mr. Geetha Ramaseshan, Advocate SR No.43253

KK(CO)

SR/1.9.2009

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