

(2011) 08 MAD CK 0458

In the Madras High Court

Case No : Writ Petition No. 7646 of 2011 and M.P. No. 1 of 2011

K. Muruganandam

APPELLANT

Vs

The District Magistrate and District Collector and Mrs.
Dhamayandhi

RESPONDENT

Date of Decision : 22-08-2011

Acts Referred:

Dowry Prohibition Act, 1961 — Section 4
Penal Code, 1860 (IPC) — Section 109, 494, 498A, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 —
Rule 4(5)

Citation : (2011) 08 MAD CK 0458

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : C.D. Johnson, for the Appellant; R. Sankarasubbu, for R2, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—By consent of the learned Counsel on either side, this writ petition is taken up for final disposal at the stage of admission itself.

2. The Petitioner and the second Respondent are the practicing Advocates and the Petitioner married the second Respondent during 2001. The second Respondent belongs to Scheduled Caste. It seems that the marriage between the Petitioner and the second Respondent broke down and the second Respondent made a complaint before the Inspector of Police, Rasipuram Police Station alleging offences under Sections 498A, 506(ii) and 494 Indian Penal Code r/w Sections 109 of Indian Penal Code and Section 4 of Dowry Prohibition Act and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes Act and the same was registered in Crime No. 966 of 2002. After investigation a charge sheet was also filed before the Principal District and Sessions Court, designated Court under

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. In the meanwhile, the second Respondent made allegations against the Public Prosecutor. She wanted the Public Prosecutor of her choice, as provided under Rule 4(5) of SC/ST (P&A) Rules, 1995 and her choice was one Mr. B. Mohan of Bhavani.

4. She also filed a petition in Crl.O.P. No. 22387 of 2010, seeking for a direction to the first Respondent to appoint an Advocate, as the Special Public Prosecutor, as desired by the victim of atrocity, for conducting her case before the Principal Sessions Judge.

5. This Court, vide order dated 28.10.2010, passed an order in Crl.O.P. No. 22387 of 2010, directing the first Respondent to engage an Advocate as desired by the victim to conduct the case pending before the learned Principal and District and Sessions Judge, Namakkal in S.C. No. 196 of 2003. The para-8 of the said order is extracted here under:

8. As per the rule, the District Magistrate is that competent authority to engage an Advocate for conducting the cases in Special Courts on payment of fee. Therefore, it is just and appropriate to direct the District Magistrate Viz., the Collector, Namakkal District to appoint an advocate as desired by the victim for conducting the case pending before the Principal and District and Sessions Judge, Namakkal.

6. In pursuance of the above order, the first Respondent passed an impugned order dated 24.12.2010 appointing Thiru B. Mohan as Special Public Prosecutor in the case in S.C. No. 196 of 2003 of Principal Sessions Judge, Namakkal.

7. Aggrieved by the order of the first Respondent, the Petitioner has filed the present petition to quash the aforesaid order dated 24.12.2010 appointing Mr. B. Mohan as the Special Public Prosecutor.

8. Learned Counsel for the Petitioner submits that the first Respondent could not have appointed Thiru B. Mohan as the Special Public Prosecutor as desired by the second Respondent. Beside stating so, learned Counsel for the Petitioner has not given any valid reason for appointing Thiru B. Mohan as the Special Public Prosecutor. Accordingly, the submission made by the learned Counsel for the Petitioner has, in my considered view, no substance.

9. Under Para-5 of the order passed in Crl.O.P. No. 22387 of 2011, this Court cited the Rule 4(5) of SC/ST (P&A) Rules, 1995, which is extracted here under:

4(5) - Notwithstanding anything contained in Sub-rule (1) the District Magistrate or by the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victims of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fee as he may consider appropriate.

The statutory rules give right to the victim of atrocities for choosing a Public Prosecutor of their own choice.

10. This Court passed an order in Crl.O.P. No. 22387 of 2010 dated 28.10.2010 by directing the first Respondent to appoint an Advocate as desired by the victim, viz., the second Respondent herein, based on which, impugned order was also passed by the first Respondent on 24.12.2010. Therefore, the order passed in Crl.O.P. No. 22387 of 2010 attained finality. Hence, the order of the first Respondent could not be faulted with, as the same is a consequential order.

11. Consequently, writ petition fails and the same is dismissed.

12. It is seen from the records that this Court, vide order dated 25.03.2011, passed an interim order to the effect that the trial in S.C. No. 196 of 2003 shall not proceed further. It is pertinent to mention here that this Court in an earlier occasion passed an order dated 23.03.2010 in Crl.O.P. No. 8562 of 2007, by directing the trial Court to dispose of the case in S.C. No. 196 of 2003 within a period of six months. In view of the stay granted by this Court on 25.03.2011 in this writ petition, the case did not proceed further.

13. However, both the counsel have now requested this Court to direct the Principal Sessions Judge, Namakkal to dispose of the case in S.C. No. 196 of 2003 within a stipulated period.

14. In these circumstances, while dismissing the writ petition, a direction is issued to the learned Principal Sessions Judge, Namakkal to dispose of the case in S.C. No. 196 of 2003 within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.