

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2015

CORAM:

THE HON'BLE Ms.JUSTICE K.B.K.VASUKI

Crl.O.P.No.12501 of 2014
and MP.No.1 of 2014

1.P.S.Rajan

2.R.Amudha

... Petitioners/ Accused 3 & 4

Vs.

1.The State rep. By
Assistant Commissioner of Police,
Neelangarai Range, Chennai- 115.

2.K.Selvamani

... Respondents/ Complainant &
Defacto Complainant

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in SC.No.299 of 2013 on the file of the Mahila Court, Chengalpattu in PRC.No.44 of 2012 on the file of the Judicial Magistrate, Alandur and quash the proceedings against the petitioners/A3 & A4.

For Petitioners : Mr.K.Rajasekaran for
M/s.A.Swaminathan

For 1st Respondent : Mr.C.Emalias, APP

For 2nd Respondent : Mr.R.Sami

O R D E R

The accused 3 and 4 in J8 Neelangarai Police Station Crime No.1866 of 2011 culminated as PRC.No.44 /2012 on the file of the Judicial Magistrate, Alandur and SC.299 of 2013 on the file of the Mahila Court, Chengalpattu, are the petitioners herein.

2.The complaint arising out of which is the present criminal proceedings, was lodged by one K.Selvamani, who is the father of Saranya since deceased, against one Suresh Kumar and Gnanasoundari, who are none else than the husband and mother-in-law of Saranya and the petitioners 1 and 2 herein, who are the sister and sister's husband of Gnanasoundari and the same was initially registered

under section 174 Cr.P.C and was later on altered into one under sections 498 (A) and 304(B) r/w section 34 IPC on the basis of the enquiry report of the Revenue Divisional Officer. The charge sheet was, after investigation filed for the same offences and was taken up on file as PRC.No.44/2012 by the Judicial Magistrate, Alandur and was later on committed to Sessions court and taken up on file as SC.299/2013 by the Mahila Court, Chengalpattu.

3.The allegations raised in the complaint against her husband are that the husband had been harassing the wife, who is the daughter of the complainant by demanding cash and jewels for doing business and he was having affairs with another lady and when the same was questioned by the wife, she was beaten by the husband. The further allegations raised in the complaint are that the wife because of such conduct of the husband, left the matrimonial house on 23.8.2011 evening and her parents brought her back to matrimonial house at 6pm on 24.8.2011, wherein, A1 to A4 assured the parents that there may not be any problem between the husband and wife and on the basis of the same, the parents left the daughter in the matrimonial house and on the next day, the daughter committed suicide.

4.Whereas, the allegations raised in the charge sheet are that A1 to A4 asked for 60 sovereigns of jewels and Rs.3 lakhs cash and the marriage was conducted by the parents of Saranya by giving her 45 sovereigns of jewels and Rs.2 lakhs cash and other domestic articles as seethanam. After marriage, A1 to A4 fought with Saranya for bringing the remaining 15 sovereigns of jewels and Rs.1 lakh and the parents of Saranya gave 3 sovereigns to her and at the time of her Baby Shower Ceremony (Seemandham), they again gave 1 sovereign of jewel and thereafter Rs.1,00,000/- to the new born baby as insisted by A1 to A4. Even thereafter, A1 continued to harass her for more amount and he was paid Rs.60,000/-, 50,000/- and 40,000/- on three occasions. A1 to A4 again on 24.8.2011 insisted for complying with the demand of balance 15 sovereigns of jewels and Rs.1 lakh cash and continued to beat and harass her and treated her cruelly and unable to bear their harassment Saranya was driven to commit suicide and she hanged herself and died on 25.8.2011. The charge sheet was taken up on file on the basis of the allegations so raised, for the offences under sections 498A and 304B r/w section 34 IPC.

5.The Investigating Officer along with the charge sheet filed the list of witnesses and documents relied on by them in support of the allegations raised against A1 to A4. The independent witnesses named in the list of witnesses are LW1 and LW2 parents and LW3 sister and LW4 to LW6 relatives of the deceased Saranya. Other witnesses examined are mahazar witnesses and seizure witnesses. Out of 6 witnesses as referred to above, the statements of LW4 to LW6 would reveal that the same are not direct in nature, but hearsay

and also bald and vague, as such, the same cannot be looked into make out the charges laid against the petitioners for the offences under sections 498A and 304B IPC.

6.As far as the statements of LW1 and LW2 Parents and LW3 sister are concerned, the same are mainly against the husband. Regarding the statement made against the petitioners are concerned, the same are also bald and vague in nature and without specifying any overt act against them. LW1 father in his statement recorded on 26.8.2011 did not raise any allegation against the petitioners and he raised allegations against the petitioners only in his further statement recorded on 28.8.2011. Both LW1 father and LW2 mother have in their respective statements only stated that the deceased used to come and tell the parents about the harassment of the husband, mother-in-law and the petitioners herein. However, the same is without any overt act and without any specific allegation about the nature of act of harassment. The statement of LW3 sister is also not helpful to the prosecution case regarding the charges framed against the petitioners. The statement of all the three witnesses would only say that they were informed about the act of harassment of the petitioners along with other family members of the husband. LW3 sister would only say that her sister used to come and tell the parents in her presence. As such, none of the above referred witnesses would say that the petitioners have at any point of time made any demand either from the deceased or from her parents directly or indirectly and the petitioners have committed any act of cruelty or harassed the deceased for complying with such demand in the presence of her parents. The witnesses have also not specifically stated as to what is the nature of the demand by the petitioners along with other family members and what is the manner of harassment of the deceased for complying with such demand. It is nobody's case that the petitioners have been living together in the in-law's family or either the petitioners or the deceased and her husband and other family members of the husband used to frequently visit their respective houses. That being so, there is absolutely no material available herein by way of oral evidence to prima facie make out or sustain the allegations made against the petitioners herein.

7.Next comes the documentary evidence made available against the petitioners herein. The only document, which is now sought to be put forth against the petitioners herein, is the so called letter purportedly written by the deceased and handed it over to her younger sister, while she left from her parents' house on the previous day. Even in the said letter, the allegations are raised only against the husband and vague statement is made that in the event of any danger to her life, her husband, mother-in-law and the petitioners herein are responsible for the same. There is absolutely no specific allegation raised against the petitioners as to how they are responsible for any alleged act of harassment meted

at the hands of the husband and his family members. Even if the letter is truly written by the deceased, it will not be helpful to the prosecution case to bring home the charges framed against the petitioners for want of any specific allegation against them. It is also relevant to mention at this juncture that the complaint did not contain any allegation against the petitioners. The statement of the witnesses do not specifically speak about any act of harassment by the petitioners. Though the letter is allegedly written by the deceased and allegedly given to her sister on the previous day, the same is not handed over to the police along with the complaint immediately after the death. The letter is referred to and handed over to the Investigating Officer only in the course of his investigation.

8.Thus, the combined appreciation of all the facts stated above would compel this court to draw an irresistible conclusion that the petitioners are implicated in the present case by reason of their close relationship with in-laws and no specific allegations are raised against them to constitute either of the acts amounting offences under sections 498A and 304B IPC and there is no legally permissible evidence available herein to make out any case against the petitioners herein. When that being so, in the event of the criminal prosecution being allowed to continue against the petitioners, the same amounts to abuse of process of law and it is not likely to favour the prosecution insofar as the petitioners are concerned. Therefore, it is a fit case, wherein, the proceedings initiated against the petitioners is, in order to secure the ends of justice, liable to be quashed.

9.In the result, this criminal original petition is allowed and the proceedings in PRC.No.44 /2012 on the file of the Judicial Magistrate, Alandur and SC.No.299 of 2013 on the file of the Mahila Court, Chengalpattu, stands quashed insofar as the petitioners herein are concerned. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Mahila Court, Chengalpattu.

2.The Judicial Magistrate, Alandur.

3.The Assistant Commissioner of Police,
Neelangarai Range, Chennai- 115.

4. The Public Prosecutor, High Court, Madras.

Cr1.O.P.No.12501 of 2014

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