

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.02.2015

CORAM

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

CRL.OP.No.2791 of 2015

and

M.P.No.1 of 2015

1.K. Santosh Kumar
2.C. Kulandaivel
3.K. Ambujam
4.Dr.C. Solaimuthu
5.K. Birundha

.... Petitioners/Accused 1 to 5

Vs.

1.The State of Tamilnadu
Rep. By the Inspector of Police,
All Women Police Station,
Salem Town, Salem.

.... 1st Respondent/Complainant

2.M. Ramya

.... 2nd Respondents/ Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No. 110 of 2014 in Cr.No.3 of 2014 pending on the file of Judicial Magistrate, Additional Mahila Court, Salem and quash the same.

For Petitioners : Mr. Kavianathan for
M/s. Nathan and Associates

For RR1 : Mr. M. Maharaja
Additional Public Prosecutor.

O R D E R

The petitioners are A1 to A5 and they are charge sheeted for offences under Sections 498 (A) and 406 of IPC and Section 4 of the Dowry Prohibition Act.

2. It is submitted by the learned counsel for the petitioners that the respondent / police ought not to have charged for the petitioners under Section 4 of the Dowry Prohibition Act.

3. He further submitted that the report of the Social Welfare Officer forwarded to the first respondent/police, there was no evidence that the petitioners have demanded dowry and harassed the second respondent. He, therefore submitted that when the Social Welfare Officer, who is the competent officer to enquire into dowry demand submitted that report, there was no case made out for dowry demand, the report ought to have been accepted by the first respondent/police and the first respondent/police should not have framed charge against the petitioners under Section 4 of the Dowry Prohibition Act.

4. The learned counsel also relied upon Tamil Nadu Dowry Prohibition Rules, 2004 and submitted that as per Rule 5 (iii) The Dowry Prohibition Officer shall receive complaint for any offence under the Dowry Prohibition Act from any person aggrieved or from a parent or relative of such person or by any recognised welfare institution or organisation; and as per rule 5 (x) the Dowry Prohibition Officer shall scrutinize the complaint and if it is found that the nature and the contents of the complaint is such apparently coming within the purview of Sections 3 or 4 or 4-A or 5 or 6 of the Act, he will immediately conduct an enquiry to collect such evidence from the parties as to findout the genuineness of the complaint;

5. As per Rule 7, when the Dowry Prohibition Officer finds that a prima facie case has been made out he shall submit the report along with statement recorded and the said report of the Dowry Prohibition Officer shall be deemed to be listed under Section 173 of Code of Criminal Procedure and he, therefore submitted that when the Dowry Prohibition Officer was vested with the task of finding the genuineness of complaint regarding petitioner and he submitted the report that no such dowry demand had taken place, the report ought to have been accepted and the police cannot file charge sheet for offence under Section 4 of Dowry Prohibition Act against the petitioner.

6. I am unable to accept the contention of the learned counsel for the petitioners. As stated supra, the petitioners are charged under Sections 498 (A) and 406 of IPC and Section 4 of the Dowry Prohibition Act. The charge sheet was filed for the aforesaid offences on the basis of the statement of witnesses, who

have stated during investigation that there was dowry demand and it is not the case of the petitioners that the statement of witnesses do not support the charge for offence under Section 4 of the Dowry Prohibition Act. The only contention put forward by the learned counsel for the petitioners is that in the absence of report by Dowry Prohibition Officer or when the Dowry Prohibition Officer gave a report that there was no dowry demand, offence under Section 4 of Dowry Prohibition Act cannot be made out and that was not considered by the Court. It is seen from the Dowry Prohibition Act, 1961 that Section 7 deal with the cognizance of offences as per 7 of the Dowry Prohibition Act. No Court shall take cognizance offence under this Act except upon his own knowledge or the police report of the facts which constitute such offence or a complaint filed by the person aggrieved by the offences or a parent or other relatives of such person or by any recognised institution or organisation. Therefore, as per Section 7 of the Act, the Court cannot take cognizance of the offence under the Dowry Prohibition Act on the basis of the report submitted by the Dowry Prohibition Officer as per Rule 7 of the Tamilnadu Dowry Prohibition Rules.

7. Further having regard to the statement of witnesses given by the investigation, the police came to the conclusion that offences punishable under Sections 498 (A), 406 IPC and 4 of Dowry Prohibition Act were committed by the petitioners. Further, there is no rule prohibiting the police officer to register the case under provision of Dowry Prohibition Act except upon the report of the Dowry Prohibition Officer. Hence, the submission of the learned counsel petitioner cannot be accepted.

In the result, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

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Sub Assistant Registrar

gv

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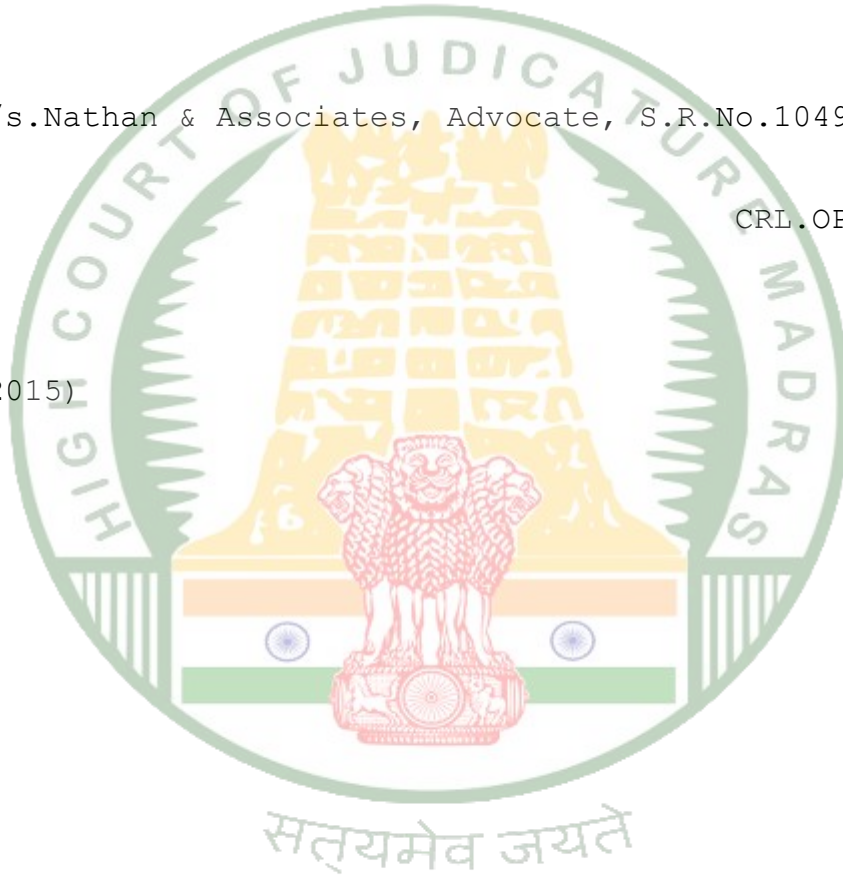
To

1. The Judicial Magistrate,
Additional Mahila Court, Salem.
2. The Inspector of Police,
All Women Police Station,
Salem Town, Salem
3. The Public Prosecutor
High Court, Madras.

+1cc to M/s.Nathan & Associates, Advocate, S.R.No.10499

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GR(CO)
CA(19/03/2015)



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