

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Cr1.O.P. No.3101 of 2015
and
M.P.Nos.1 and 2 of 2015

1.R.Daranivel
2.R.Jayalakshmi
3.R.Lakshmi

... Petitioners

vs.

State represented by
the Inspector of Police,
All Women Police Station,
Chengalpattu.

... Respondent

PRAYER : Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure praying to call for the records relating to the charge sheet laid by the respondent police in C.C.No.9 of 2013 dated 5.7.2011 on the file of the learned Additional Mahila Court at Chengalpattu and quash the same as illegal and in continuance of criminal proceeding would tantamount to abuse of process of law.

For Petitioners : Mr.Manikannan

For respondent : Mr.V.M.R.Rajentren,
Addl.Public Prosecutor

O R D E R

The petitioners are A.1, A.3 and A.2, respectively, in C.C.No.9 of 2013 on the file of the Additional Mahila Court at Chengalpattu. This petition is filed by the petitioners to quash the charge sheet filed in the above case.

2. It is submitted by the learned counsel for the petitioners that the first petitioner is the husband of the defacto complainant, the second petitioner is the mother-in-law of the defacto complainant and the third petitioner is the sister-in-law of the defacto complainant. He submitted that initially, a case was registered in Crime No.2 of 2011 on the file of the All Women Police Station, Chengalpattu against the petitioners and four other persons and the petitioners were arrayed as A.1, A.7 and A.6 respectively in the FIR. Later, charge sheet was filed against the petitioners alone on the basis of further statement given by the defacto complainant. He therefore submitted that the defacto complainant was not consistent

in giving her statement and in the initial stage, she gave a complaint against seven persons and in the further statement given during investigation, she admitted that she was under stress at the time of giving complaint and therefore, she included Saraswathi, Vasan, Bagyalakshmi and Suresh Kumar along with the petitioners as accused and later, she realised that the petitioners alone ill-treated her. He therefore submitted that the defacto complainant was not clear in giving statement and was in a confused state. Therefore, these facts shall be taken into consideration. He also submitted that the Social Welfare Officer conducted enquiry and he also gave a statement during investigation that there was no demand of dowry for a period of one year when the parties lived together and the defacto complainant did not produce any material proof for dowry harassment and the first petitioner/husband expressed his willingness to live with the wife/the defacto complainant but the defacto complainant expressed her intention not to live with the first petitioner. He therefore submitted that having regard to the statement to the Social Welfare Officer that there was no dowry harassment, the charge sheet filed against the petitioners for offence under section 498A and 506(i) of the IPC has to be quashed. He also submitted that in respect of the very same occurrence that took place on 17.1.2011, another case in Crime No.21 of 2011 was registered against the first petitioner and two others for offence under sections 294(b), 448, 323 and 324 of the IPC. Therefore, having regard to one incident, two cases cannot be registered and on that ground also, the FIR is liable to be quashed.

3. Heard the learned Additional Public Prosecutor.

4. I am unable to accept the contention of the learned counsel for the petitioners.

5. As rightly submitted by the learned counsel for the petitioners, initially, in Crime No.2 of 2011, there were seven accused and the petitioners herein are A.1, A.7 and A.6 respectively. The case was registered against the petitioners and others for the offence under section 498A and 506(i) of the IPC and section 4 of D.P.Act. The defacto complainant was examined on 19.5.2011 and at that time, she gave statement against all the accused mentioned in the FIR. She also referred to the incident that took place on 17.1.2011, which led to the filing of Crime No.21 of 2011 against the accused mentioned therein. Thereafter, on 9.6.2011, PW.1/ the defacto complaint gave further statement wherein she admitted that at the time of giving FIR, she was under mental stress and pain and therefore, she included the names of Saraswathy, Vasan, Bagyalakshmi and Suresh Kumar, as accused and A.1 Daranivel, A.3 mother-in-law, A.2 sister-in-law - Lakshmi, alone ill-treated her and demanded dowry. Therefore, having regard to the further statement, the investigating officer rightly deleted the names of Saraswathy, Vasan, Bagyalakshmi and Suresh Kumar from the array of the accused.

Further, having regard to the report of the Social Welfare Officer, the Investigating Officer found that no offence was made under the provisions of Dowry Prohibition Act and the charge sheet was filed for the offence under Section 498A and 506(i) of the IPC.,. The submission of the learned counsel for the petitioner is that the Social Welfare Officer has given statement giving a clean chit to the petitioners and the defacto complainant was admittedly under mental stress and therefore, all these aspects ought to have been considered before registering the FIR.

6. As stated supra, the police after considering further statement of the defacto complainant filed charge sheet only against the petitioners herein and the statement of the defacto complainant was corroborated by the statement of the other witnesses. Further, on the basis of the statement of the Social Welfare Officer, the respondent police deleted the charge under provisions of the Dowry Prohibition Act and filed charge sheet only in respect of the offence under Section 498A and 506(i) of the IPC based on the statement of the witnesses.

7. It is seen from the FIR in Crime No.21 of 2011 that on 17.1.2011, the accused mentioned therein, namely, Dharanaivel, Vasan, Saraswathy abused the defacto complaint, trespassed into the house of defacto complaint and assaulted the defacto complainant. Therefore, the case was registered against the six persons for offence under Section 494(b), 448, 323 and 324 of the IPC. That incident has nothing to do with the registration of the case in Crime No.2 of 2011 or charge sheet filed in C.C. No.9 of 2013. Hence, the charge sheet cannot be quashed on the basis of the registration of FIR in Crime No.21 of 2011.

8. For all these reasons, the petition is liable to be dismissed and accordingly, dismissed. The connected Miscellaneous Petitions are also dismissed.

asvm

-s/d-
सत्यमेव जयते

Assistant Registrar(CO)
Dt:3/3/2015

True Copy

Sub-Assistant Registrar

To

1. The Additional Mahila Court,
Chengalpattu.

2. The Inspector of Police,
All Women Police Station,
Chengalpattu.

3. The Public Prosecutor,
High Court, Madras.

tej (co)
prk5/3

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