

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.07.2015

Delivered on : 15.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.18419 of 2014
and M.P.Nos.1,3 of 2014

T.C.Harinath ... Petitioner/Accuse

Versus

1.State by Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Chennai-39. .. /Complainant

2.Dhanalakshmi ..Respondents/Defacto
Complainant

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in CC.3091 of 2009 on the file of the X Metropolitan Magistrate, Egmore, Chennai and to quash the same.

For Petitioner : Mr.N.Manoharan
For Respondents : Mr.C.Emalias, Addl. Public Prosecutor
[for R1]
: Mrs.T.K.S.Bharathy Anandraj [for R2]

ORDER

This petition has been filed to quash the proceedings in CC.3091 of 2009 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai.

2. Heard the learned counsel for the petitioner; the learned Additional Public Prosecutor appearing for the 1st respondent; the learned counsel appearing for the 2nd respondent and perused the materials placed on record.

3. On a complaint lodged by Dhanalakshmi, the respondent Police registered a case in Crime No.2 of 2008 and after completing the investigation, filed a Final Report, which has been taken on file as CC.No.3091 of 2009 for offences under Section 406, 498A and 506[iii] IPC and the same is pending before the learned X Metropolitan Magistrate, Chennai-8.

4. The irony in this prosecution is that the husband of Dhanalakshmi has not been made accused and instead, her mother-in-law, brother-in-law and sister-in-law have been arrayed as A1, A2 and A3 respectively.

5. It is admitted by both sides that the prosecution against the Sister-in-law Valarmathi [A3], was quashed by this Court in CrI.OP.No.2627 of 2010 on 18.07.2011.

6. Harinath [A2] who is the petitioner before this Court is the brother-in-law of Dhanalakshmi and brother of her husband Badrinath. Badrinath got married to Dhanalakshmi on 29.05.2006 and after marriage, they lived in the joint family setup. K.Chandran the father of Harinath [A2] and Badrinath died on 04.07.2007. Immediately after the death of K.Chandran, Dhanalakshmi and Badrinath filed a suit in OS.No.7131 of 2007 before the learned V Assistant Judge, City Civil Court for partition of joint family properties. The suit was dismissed as withdrawn on 17.07.2008. Again they filed another suit through their minor son in OS.No.5408 of 2008 before the learned V Assistant Judge, City Civil Court for partition, which appears to have been decreed exparte on 20.07.2012 and an appeal in AS.No.452 of 2012 is pending on the file of the learned IV Additional Judge, City Civil Court, Chennai.

7. While so, Dhanalakshmi lodged a complaint on 08.01.2008 against her Mother-in-law, Brother-in-law and Sister-in-law, leaving out her husband, based on which, a case in Crime No.2 of 2008 was registered by the Police and after completing the investigation, the Final Report under challenge in this quash petition was filed.

8. On a reading of the Final Report, Dhanalakshmi has stated that after marriage, they were all living in joint family and that she was treated with great affection by her in-laws. When she conceived and went to her parents house and during her stay there, she came to know that her father-in-law had died and when she came to her matrimonial home with her parents for the funeral, they were insulted by her in-laws.

9. The entire Final Report and the statements recorded by the Police contains very vague allegations, which on the face of it has been deliberately contrived with ulterior motive. There is no whisper in the complaint given by Dhanalakshmi in the year 2008 about the filing of the suits in the year 2007.

10. The learned Additional Public Prosecutor and Mrs.T.K.S. Bharathy Anandraj, learned counsel appearing for the defacto complainant contended that there are triable allegations in the Final Report. In Preeti Gupta and Another Vs State of Jharkhand and Another [2010] 7 SCC 667, the Hon'ble Supreme Court has held as follows:

"It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including the Supreme Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of society. It is a matter of common experience that most of these complaints under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. It is seen that a large number of such complaints are not even bonafide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern."

The facts of this case squarely fits into the above observations made by the Hon'ble Supreme Court.

11. In the result, this petition is allowed and the proceedings in CC.No.3091 of 2009 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai as against the petitioner is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The X Metropolitan Magistrate,
Egmore, Chennai

2.The Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Chennai-39.

3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.N.Manokaran, Advocate SR.35993

+ 1 cc to Mr.T.K.S. Bharathy Anandraj, Advocate SR.35833

CRL.O.P.No.18419 of 2014

JSV(CO)

Eu 24.07.15