

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.06.2015

DELIVERED ON : 11.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.3247 of 2013 and M.P.Nos.1 and 2 of 2013

1.Ayyavu

2.Andal

3.Devaki

4.Usha @ Usha Rani ..Petitioners/Accused 2to5
Vs

1.State rep by
All women Police Station, Erode
(Crime No.6/2009), C.C.No.362/2009
Judicial Magistrate No.III,
Erode u/s 498-A, 406, 506(ii) IPC &
Section 4 of D.P.Act.

2.K.Revathi .. Respondents/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the proceedings pursuant to C.C.No.362 of 2009 pending on the file of the Judicial Magistrate No.III, Erode, and to quash the entire proceedings against the petitioners herein.

For Petitioners M/s Nathan and Associates
For R1 Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records of the proceedings pursuant to C.C.No.362 of 2009 pending on the file of the Judicial Magistrate No.III, Erode and quash the same.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. On a complaint lodged by K.Revathi, the respondent police registered a case in Cr.No.6 of 2009 for offences under Sections 498-A, 406 IPC and Section 4 of the Dowry Prohibition Act against the 5th accused and after completing the investigation filed a Final Report for the said offences before the learned Judicial Magistrate -III, Erode.

4. The crux of the allegations of the defacto complainant is that, she got married to Manikandan and after marriage, her husband and her in-laws subjected her to untold cruelty. During the pendency of the prosecution, Manikandan died on 26.04.2011 and the prosecution against him abated.

5. The learned counsel for the petitioners submitted that the petitioners are very innocent and there are no materials against them. He further submitted that there are several discrepancies in the complaint lodged by Revathi and therefore, the entire prosecution is an abuse of process of law.

6. It is seen that these petitioners had filed CrI.O.P.No.26065 of 2009 and the same was dismissed for default by this Court on 29.11.2011 and the petition for restoration of the same was also dismissed by this Court on 03.01.2013. Again they filed this quash petition and thereby they have successfully not permitted the prosecution to proceed further.

7. The respondent police have filed counter, wherein, it is stated as follows in para 2:

"2. It is submitted that, the defacto complainant/2nd respondent herein preferred a complaint before the respondent police and stated that she got married with one Tr.Manikandan (a-1) who is son of Ayyavu/1st petitioner herein (A-2) on 18.06.2007 and her parents had given totally 50 sovereigns of Gold and Rs.2 lakhs as cash and also household articles as dowry at the time of marriage. After the wed-lock, she lived with in-laws house at Thanjavur only 5 days and thereafter, she lived separately along with A-1 at Erode District. While so, A-1, due to official work went to Singapore, while going, A-1 brought 50 sovereigns of gold and cash Rs.2 lakhs from the defacto complainant/2nd respondent and handed over the same to A-2 to A-4 and informed that within one month he will come back. Meanwhile the defacto complainant/2nd respondent was conceived. A-1 i.e., her husband and in-laws i.e., (petitioners 2 to 4) compelled her to abort since the child in the womb might be a female one which is not suitable to their family tradition, but she refused to do so, the petitioners 1 to 4 threatened that they will divorce her, if female child birth and also given tortured her by both physically and mentally as such she went to her parents house and she delivered one female child on 25.03.2008. A2 to A8 came and saw the child and did not call her to live along with them and also A-2 has not returned from Singapore and also not asked her to come to Singapore. As per A-1's inducement, A2 to A4, came to the defacto complainant/2nd respondent's parents and made compromise to live with A1, but demanded Rs.5 lakhs as a dowry from the defacto complainant/2nd

respondent. Hence the defacto complainant/2nd respondent preferred the complaint before the respondent police to take necessary action against A-1 to A-5."

8. The learned counsel for the petitioner relied upon the judgments of the Supreme Court in Neelu Chopra and another vs. Bharti [CDJ 2009 SC 1912] and Shakson Belthissor v. State of Kerala and another [CD 2009 SC 1343] to drive home the point that, all the family members have been unnecessarily roped into the prosecution. This Court has no quarrel with the proposition laid therein in the facts and circumstances of that case.

9. Very recently, the Hon'ble Supreme Court in Taramani Parakh v. State of Madhya Pradesh [(2015) 3 Scale 616] has reversed the order passed by the High Court of Madhya Pradesh, quashing the prosecution against relatives on the ground that, when there are materials available on record, the prosecution should not be quashed. In this case, this Court finds sufficient incriminating materials to proceed as against the petitioners 1, 2 and 3. As regards the fourth petitioner, she is the sister of Manikandan and there are no serious allegations as against her.

In the result, this petition is partly allowed. The proceedings as against Usha [A5] in C.C.No.362 of 2009 on the file of the Judicial Magistrate No.III, Erode is hereby quashed. As regards the other petitioners, this petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.III, Erode,
2. -do- Through the Chief Judicial Magistrate Erode.
- 3.All women Police Station, Erode.
- 4.The Public Prosecutor, High Court, Madras.

+ 2 ccs to M/s. Nathan and Associates Advocate Sr.28810, 27379

Cr1.OP No.3247 of 2013

MG (CO)
EU 23.06.15