

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.07.2015

DELIVERED ON : 10.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.27985 of 2013, 13902 and 13947 of 2014
and

M.P.Nos.1 and 2 of 2013 in Crl.O.P.No.27985 of 2013 &
M.P.Nos.1 and 1 of 2014 & 2 and 2 of 2015

1.Om Priyadharshini
2.Om Prakash

.. Petitioners in Crl.O.P.27985/2013
(Accused 4 and 5)

1.S.Mageshwari
2.N.M.Sekar

.. Petitioners in Crl.O.P.13902/2014
(Accused 2 and 3)

S.Rajiv

.. Petitioner in Crl.O.P.13947/2014
(Accused 1)

Vs

1.State rep by
Inspector of Police
All Women Police Station
Perur, Coimbatore District
(Cr.No.20 of 2013)

2.Hemalatha

.. Respondents in all Crl.O.Ps.
(Complainant & Defacto Complainant)

Criminal Original Petition No.27985 of 2013 filed under Section 482 Cr.P.C., to call for the records pertaining to the FIR in Cr.No.20 of 2013 on 29.08.2013 on the file of the Inspector of Police, All Women Police Station, Perur, Coimbatore District and quash the same as against the petitioners/accused 4 and 5.

Criminal Original Petition Nos.13902 and 13947 of 2014 filed under Section 482 Cr.P.C., to call for the entire records in respect of the case registered against the petitioners in Cr.No.20 of 2013 on the file of the respondent police and quash the same.

For Petitioners
in all CrI.O.Ps

Mr.D.Rajagopal

For R1
in all CrI.O.Ps

Mr.C.Emalias, Addl.Public Prosecutor

For 2
in all CrI.O.Ps

Mr.R.Karthikeyan

ORDER

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

2. On a complaint dated 29.08.2013 given by Hemalatha, the respondent police registered a case in Cr.No.20 of 2013 against all the petitioners herein, for offences under Sections 498A, 406 and 506 IPC, challenging which the petitioners are before this Court for quashing the FIR.

3. It is the case of the defacto complainant that she got married to Rajiv [A1] on 09.02.2012 in Coimbatore and at the time of marriage, her parents gave her 200 sovereigns of gold, 5 kg of silver and SUV bearing Registration No.KA 05 MK 9617 together with cash of Rs.15 lakhs. After marriage the couple settled down in Bangalore and their marriage ran into rough weather.

4. On a complete reading of the FIR, the defacto complainant has narrated the acts of cruelties meted out to her by her husband who is said to be addicted to liquor and that he would assault her in intoxication.

5. The learned counsel for the petitioners strenuously contended that, the entire allegation in the FIR had taken place only in Bangalore and that the FIR registered in Coimbatore is an abuse of process of law. In support of his contention he relied upon the following judgments of the Supreme Court:

(i) Y.Abraham Ajith and others v. Inspector of Police, Chennai and another [2004 CrI.L.J.4180(1)]

(ii) Manish Ratan and others v. State of M.P. and another [(2007) 1 SCC 262]

6. The respondent police have filed their counter, wherein it is stated as follows in paragraph no.2:

"2. The case of the prosecution is that the complainant Tmt.Hemalatha got married with one Tr.Rajiv on 09.02.2012, at that time of marriage 200 sovereign gold jewels, 5 kg silver articles and also cash Rs.15 lakhs for purchase of XUV 500 Mahindran Car bearing registration No.KA 05 MK9617 gave by the complainant's parents. After their marriage, A-1 to A-5 not satisfied with the "Sreedhana Articles" given by the complainant's parents, they were also demanded of dowry 50 sovereign gold jewels and 10 carat Diamond and abused the complainant's parents with filthy language and harassed the complainant. Further, stated that the accused - Rajiv [A-1] used to harass the complainant in a drunken mood and to compel the defacto complainant to drink the same and thus torture her. The accused [A-1 to A-3] forcibly taken the complainant's jewels and the same was kept in A-1's Locker at State Bank of India, Bangalore and also her Passport, Driving License, Educational Certificates and all certificates forcibly taken from her. On 22.02.2012 the complainant and her husband went to Temple, Pollachi, after worship the A-1 pushed her down and lift her there abruptly thus harassed the complainant. After one hour came back and sent her to her parents' house."

7. The learned counsel for the defacto complainant submitted that, the offence is a continuing offence and the defacto complainant was even assaulted in Pollachi, about which she has referred to in the complaint and therefore, the FIR cannot be quashed at the threshold. In support of his contention, he relied upon the recent judgment of the Supreme Court in Satvinder Kaur v. Sate (Govt. of NCT of Delhi) and another [(1999) 8 SCC 728], wherein it is stated as follows in paragraph no.15:

"Hence, in the present case, the High Court committed grave error in accepting the contention of the respondent that investigating officer had no jurisdiction to investigate the matters on the alleged ground that no part of the offence was committed within the territorial jurisdiction of police station at Delhi. The appreciation of the evidence is the function of the Courts when seized of the matter. At the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that police station officer of particular police station would not have territorial jurisdiction. In any case, it has to be stated that in view of Section 178(c) of the Criminal Procedure Code, when it is uncertain in which of the several local areas an offence was committed, or where it consists of several acts done in different local areas, the said offence can be inquired into or tried by a Court having jurisdiction over any of such local areas.

Therefore, to say at the stage of investigation that S.H.O., Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction, is on the face of it, illegal and erroneous. That apart, Section 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate. The High Court has completely overlooked the said embargo when it entertained the petition of respondent no. 2 on the ground of want of territorial jurisdiction."

8. This Court carefully considered the rival submissions. On a complete reading of the FIR, the defacto complainant has roped in all the family Members of her husband and has made reckless allegations against them. This Court finds that the allegations against Om Priyadarshini [A4] and Dr.Om Prakash [A5] who are the sister and brother-in-law of Rajiv [A1] are indeed very vague. It is seen that this couple were in Singapore, as Dr.Om Prakash is said to be a Cardio Vascular and Thoracic Surgeon in the National University Hospital, Singapore.

9. Under such circumstances, this Court is of the view that it is a fit case to quash the FIR as against Dr.Om Priyadharishini [A4] and Dr.Om Prakash [A5] petitioners in CrI.O.P.No.27985 of 2013 and accordingly, this petition is allowed and the proceedings are quashed as against A4 and A5. Connected miscellaneous petitions are closed.

10. As regards the petitioners in CrI.O.P.Nos.13947 and 13902 of 2014, namely Rajiv [A1] and his parents respectively, there are serious allegations made by the defacto complainant, which require investigation. The question of territorial jurisdiction cannot be decided by this Court based on the allegations in the FIR. If during the investigation the police find that the allegations made by the defacto complainant were false, they would surely close the investigation. If they find that all the events had taken place only in Bangalore, they can also close the case with a report directing the defacto complainant to approach Bangalore Police. Under such circumstances, the entire FIR cannot be quashed at the threshold. In the result CrI.O.P.Nos.13947 and 13902 of 2014 are dismissed. Consequently, connected miscellaneous petitions are closed.

gms

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. Inspector of Police
All Women Police Station
Perur, Coimbatore District.

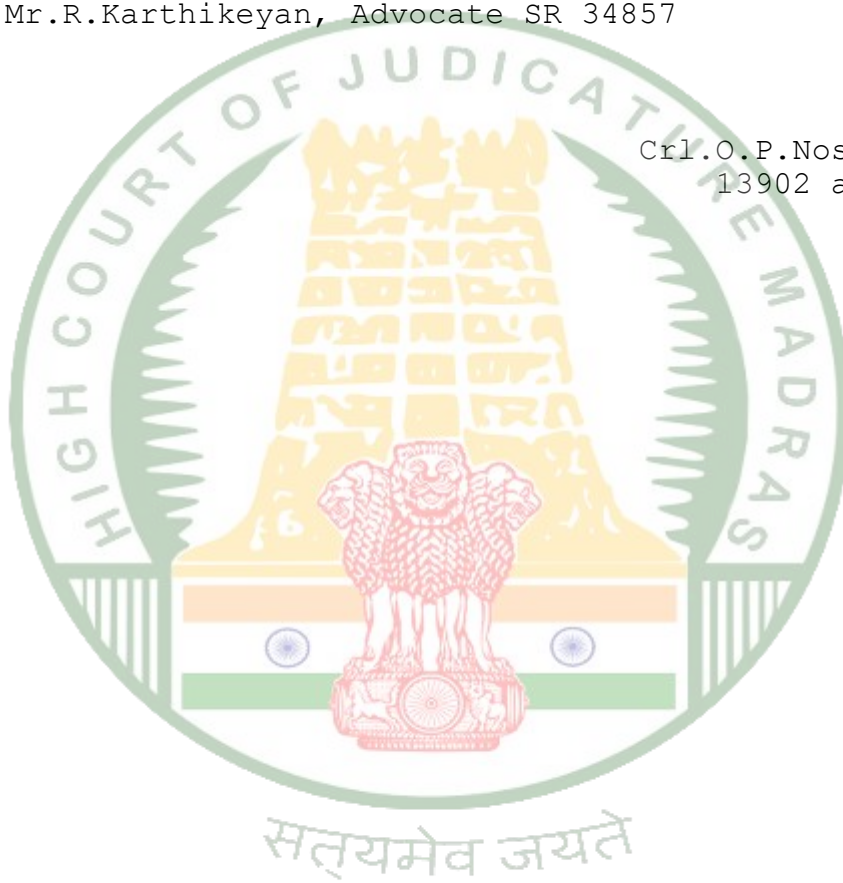
2. The Public Prosecutor
High Court, Madras.

+ 3 ccs to Mr.D.Rajagopal, Advocate SR 34832, 34833, 34830

+ 1 cc to Mr.R.Karthikeyan, Advocate SR 34857

ts(co)
prk24/7

Crl.O.P.Nos.27985 of 2013,
13902 and 13947 of 2014



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