

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.12890 of 2016

&

Crl.M.P. No.6677 of 2016

1.A. Prathap Kumar
2.Adimoolam
3.K. Jayanthi
4.I. Sumathi
5.A. Vinoth Kumar
6.S.P. Ilangovan
7.E. Karunanidhi
8.A. Mahalakshmi
9.Preethi

... Petitioners

Vs.

1.State represented by
Inspector of Police
All Women Police Station
Gudiyatham, Vellore District
Crime No.12 of 2015

2.S. Abirami

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C. No.179 of 2015 on the file of the Judicial Magistrate Court, Gudiyatham and quash the same.

For Petitioner : Mrs. Selvi George
for Mr. P. Anandan

For R1 : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.179 of 2015 on the file of the Judicial Magistrate Court, Gudiyatham and quash the same.

2. On the complaint filed by Abirami @ Anuradha, the first respondent police registered a case in Crime No.25 of

2013 and after completing the investigation, has filed a final report in C.C. No.179 of 2015 before the Judicial Magistrate, Gudiyatham for offences under Section 498-A, IPC read with Sections 4 and 6 of the Dowry Prohibition Act against the petitioners herein, challenging which, the petitioners are before this Court.

3. Heard Mrs. Selvi George, learned counsel representing the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent-State.

4. Mrs. Selvi George, learned counsel, contended that the de facto complainant had been subjecting her husband Prathap Kumar to torture and therefore, Prathap Kumar filed an Original Petition seeking divorce in which the de facto complainant appeared and stated that she would mend her ways, on the strength of which, her husband Prathap Kumar withdrew the Family Court proceedings in the year 2012. Thereafter, the de facto complainant has given the present complaint making frivolous allegations against the petitioners herein.

5. On a reading of the complaint given by the de facto complainant, which forms the basis of the first information report, it is seen that the de facto complainant has narrated several instances of which she has specifically stated that on 19.04.2012, she was beaten by her in-laws and they demanded a sum of Rs 9 lakhs as additional dowry and since her parents were not able to meet the demand, she was chased away from the matrimonial home. Therefore, this Court finds that there are sufficient averments in the final report for the trial to proceed against the petitioners herein.

6. The learned Additional Public Prosecutor submitted that during the course of investigation, it came to light that Prathap Kumar has married one Anandhi, pursuant to which, a second FIR has been registered in Crime No.12 of 2015 for offences under Sections 498-A, 494, 406 and 506(I) read with Section 34 IPC against the petitioners.

7. In the considered opinion of this Court, registration of a second FIR is a clear abuse of process of law, inasmuch as, when the investigation was pending in Crime No.25 of 2013, the police should have filed an alteration report and included the new offences, which were not included in the earlier FIR in Crime No.25 of 2013.

8. Hence, this Court directs the respondent police to file a supplementary final report under Section 173(8) Cr.P.C. in C.C. No.179/2015 before the Judicial Magistrate, Gudiyatham in respect of the case in Crime No.12 of 2015.

9. It is seen that the second petitioner is 70 years old and respondents 3,4,8 and 9 are ladies. Under such circumstances, the presence of petitioners 2,3,4,8 and 9 before the Trial Court is dispensed with on condition that the petitioners 2,3,4,8 and 9 shall be present for receiving the charge sheet, for answering the charge at the time of questioning under Section 313, Cr.P.C. and at the time of passing judgment. The petitioners 2,3,4,8 and 9 shall file affidavit of undertaking before the Trial Court that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses on the day they are examined-in-chief and that they will not adopt dilatory tactics. On such undertaking, the Trial Court shall dispense with their personal appearance. If the petitioners adopt any dilatory tactics, the Trial Court can insist on the presence of petitioners 2,3,4,8 and 9. The petitioners are at liberty to raise all the points before the Trial Court.

With the above direction and observation, this Criminal Original Petition stands disposed of. Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

cad

To

1.The Inspector of Police
All Women Police Station
Gudiyatham
Vellore District.

2.The Judicial Magistrate,
Gudiyatham, Vellore District.

3.The Public Prosecutor
High Court, Madras.

CrI.O.P.No.12890 of 2016

LRS(CO)
CA(01/08/2016)