

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE S.BASKARAN

CRL.OP.No.6581 of 2010

and

M.P.No.1 of 2010

Balakumar

... Petitioner

...Vs...

Rajeswari

...Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.22 of 2010 on the file of Judicial Magistrate No.1, Villupuram and quash the same.

For Petitioner : Mr.S.Swamidoss Mano
For Respondent : Mr.K.P.Palaniappan

O R D E R

This petitioner who is accused No.1 in C.C.No.22 of 2010 pending on the file of Judicial Magistrate No.1, Villupuram has come forward with this petition and quash the same.

2. The petitioner states that he married the respondent on 19.02.2006 and they lived together at Villupuram and the petitioner was employee in Chennai and used to travel daily to Villupuram. After sometime, travelling daily to Villupuram was found difficult and he used to go every weekend. Since, the petitioner was at Chennai, the respondent left matrimonial home without his knowledge and stay at her parents house. The respondent also ill-treated the aged of the mother of the petitioner and left home without informing anybody frequently to her parents house. On 10.01.2007, she left the matrimonial home and refused to return inspite of, efforts made by the petitioner and family elders. Hence, the petitioner filed H.M.O.P.No.53 of 2007 for divorce and on receipt of the notice, the respondent/wife filed I.A.No.197 of 2007 for interim maintenance. Thereafter, she filed M.C.No.5 of 2008 before the Family Court, Puducherry on 04.01.2008.

3. Subsequently, the respondent filed a complaint before All Women Police Station, Villupuram against the petitioner, his mother and other relatives and the FIR was registered in Crime No.3 of 2009 under Sections 498(A), 294 (b), 323, 506(ii) IPC and Sec.4&6 of D.P.Act.

4. Subsequently, when the respondent complaint was registered in Crime No.3 of 2009 was referred, she lodged a private complaint before the Judicial Magistrate No.1, Villupuram on 07.12.2009 with false allegations. The said complaint was lodged with ulterior motives in order to harass the petitioner and his relatives. Hence, the petitioner seeks to quash the proceedings in CC.No.22 of 2010.

5. When the matter was taken today, the learned counsel appearing for the petitioner conceded that the learned counsel was unable to point out any valid ground to entertain the petition. It is necessary to quash the proceedings in C.C.No.22 of 2010, the learned counsel appearing for the petitioner fairly stated that the Trial Court may be directed to take note of the contention of the petitioner herein and proceeded the trial.

6. The learned counsel pointed out that the respondent has taken contradictory stand about living together, after marriage and in C.C.No.22 of 2010, she has stated that she will live only in family members in joint family and never in Chennai whereas in her petition for maintenance in I.A.No.197 of 2007 in H.M.O.P.No.53 of 2007, she has stated that she never lived in Villupuram and lived only in Chennai. It is also pointed out that M.C.No.5 of 2008 filed in Family Court, Puducherry by the respondent, seeking maintenance amount.

7. It is alleged that the petitioner is employee in Standard Chartered Bank, Chennai, drawing a monthly salary Rs.30,000/- and further earning considerable income from his medical shop in Chennai and from his lands.

8. However, in the complaint filed in C.C.No.22 of 2010, it is stated by the respondent herein that the petitioner is not working in Standard Chartered Bank and the medical shop at Chennai is not owned by him.

9. The learned counsel appearing for the petitioner also pointed out that in the complaint given to All Women Police Station, Villupuram, registered in Crime No.3 of 2009, the respondent has stated about incurring Rs.10,00,000/- as marriage expenses and about other articles given at the time of marriage. However, nothing has mentioned about Rs.10,00,000/- spent on marriage in C.C.No.22 of 2010.

10. This according to the petitioner will clearly go to show that the complaint and petitions are filed by the respondent without any threaten and only when intention with harass petition and his family. It is stated that the present complaint is also lodged by the respondent suppressing the facts only when the intention to harass the petitioner. Hence, the petitioner seeks to quash the proceedings in C.C.No.22 of

2010 on the file of the Judicial Magistrate No.1, Villupuram, by allowing this petition.

11. As stated above, the dispute exists between the petitioner and respondent who are legally wedded couple. In such circumstances, the fruitfulness or otherwise of the allegations found in the private complaint made by the respondent pending in CC.No.22 of 2010 on the file of the Judicial Magistrate No.1, Villupuram has to be ascertained by the said Court and the materials available and on the basis of the enquiry. In such circumstances, it will not be appropriate to quash the proceedings as claimed by the petitioner herein.

12. In view of the above said discussions, it will not be just and proper to entertain the petition which has no merits. In such circumstances, the Criminal Original Petition has to fail and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The Judicial Magistrate Court No.1, Villupuram

2.do thro'The Chief judicial Magi, Villupuram.

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CRL.OP.No.6581 of 2010 and
M.P.No.1 of 2010

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