

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.01.2016

Date of verdict : 20.1.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.3585 of 2015 and
and M.P.Nos.1 and 2 of 2015

1.Kothandam

2.K.Malliga

... Petitioners/Accused 2&3

Vs

1.State represented by its
Inspector of Police,
All Women Police Station,
Tambaram.

2.P.Ramapriya

... Respondents/Complainant

Criminal Original Petition filed under Section 482
Cr.P.C. to call for the records relating to C.C.No.303 of 2014
on the file of the learned Judicial Magistrate, Tambaram and
quash the same.

For Petitioners: Mr.S.Arivazhagan

For respondents: Mr.C.Emalias,
Addl. Public Prosecutor
for R.1
Mr.M.Babu Muthu Meeran,
for R.2

ORDER

The present criminal original petition has been filed
to call for the records relating to C.C.No.303 of 2014 on the
file of the learned Judicial Magistrate, Tambaram and quash the
same.

2. The petitioners herein, who are none other than the
father in law and mother in law of the second respondent / de
facto complainant, have been arrayed as A.2 and A.3 in
C.C.No.303 of 2014 on the file of the learned Judicial
Magistrate, Tambaram.

3. The case of the prosecution is that the second respondent got married with the petitioners' son Ramesh / A.1 on 3.12.2008. After marriage, they went to Singapore on 27.4.2009, where the second respondent was harassed by her husband at the instance of her in-laws, to bring a sum of Rs.25,00,000/-. They had also taken 60 sovereigns of gold jewels of the second respondent, which were kept in a locker. Further, the petitioners did not allow the second respondent to live with her husband since she has not brought a sum of Rs.25,00,000/-. Hence, the second respondent lodged a complaint with the first respondent police and the same was registered in Crime No.9 of 2014. In this case, after completion of investigation, charge sheet was filed and the same was taken on file as C.C.No.303 of 2014 by the learned Judicial Magistrate, Tambaram. Now, to quash the said proceedings, the present criminal original petition has been filed.

4. Learned counsel appearing for the petitioners by inviting the attention of this Court to the statement given by the second respondent under Section 161 Cr.P.C., submitted that in the said statement itself, the second respondent had stated that she had handed over 60 sovereigns of jewels only to her husband / A.1. She had also stated in the said statement that her husband demanded a sum of Rs.25,00,000/- as dowry. Absolutely, there is no averment as against these petitioners. Hence, there is no material as against these petitioners to proceed with the case for the alleged offence punishable under Sections 498(A) and 406 I.P.C. Further, the learned counsel appearing for the petitioners by drawing the attention of this Court to the statement made in the First Information Report and submitted that in the First Information Report, the second respondent had stated that the petitioners had demanded a sum of Rs.25,00,000/- for construction of a house at Maraimalai Nagar. But, in the statement under Section 161 Cr.P.C., she had stated that her husband demanded a sum of Rs.25,00,000/- to buy a house at Singapore. This contradiction found in the statements would go to show that the present complaint has been filed only with false allegations. Even in the reply sent by the second respondent to the legal notice sent by A.1, she has not made any allegation with regard to demand of dowry. Further, the learned counsel appearing for the petitioners has relied upon the judgment of the Hon'ble Supreme Court reported in (2010) 10 SCC 673 - Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar & Anr., in support of his contention that if the allegations themselves are so absurd, the Court has to look into the allegations with the openness and then to decide whether to pass any order in the interest of justice. Thus, he sought for quashing the proceedings as against these petitioners in C.C.No.303 of 2014 pending on the file of the learned Judicial Magistrate, Tambaram.

5. Learned Additional Public Prosecutor submitted that a reading of the statement under Section 161 Cr.P.C. would go to show that a specific allegation is made as against these petitioners to the effect that these petitioners used to pick up quarrel with the second respondent and they were harassing her. Therefore, it is incorrect to state that there is no material to connect these petitioners with the alleged offence. Thus, he sought for dismissal of the petition.

6. Learned counsel appearing for the second respondent has also made his submissions opposing to quash the proceedings pending against these petitioners.

7. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

8. On a perusal of the statement given by the second respondent under Section 161 Cr.P.C., I find that some allegations have been made as against these petitioners with regard to demand of dowry and harassment. Learned counsel appearing for the petitioners has made his submissions only by inviting the attention of this Court to certain portions made in the statement under Section 161 Cr.P.C. The said submissions made by the learned counsel appearing for the petitioners, in my considered opinion, could be taken as a defence during the course of trial, but definitely, it will not serve as a ground to quash the proceedings. It is well settled legal principles that where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion, then the same can be quashed. But, in the instant case, on a reading of the entire allegations, I find that a prima facie allegation has been made against these petitioners also and the genuineness of the said allegations cannot be gone into at this stage. Therefore, it is not a fit case to quash the proceedings as against these petitioners in C.C.No.303 of 2014 pending on the file of the learned Judicial Magistrate, Tambaram.

9. In fine, the criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed. However, the trial Court is directed to dispense with the personal appearance of the petitioners, except the dates on which their presence is necessary.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

To

1.The Judicial Magistrate, Tambaram.

2. -do- Through The Chhief Judicial Magistrate, Kancheepuram.

3.The Inspector of Police,
All Women Police Station,
Tambaram.

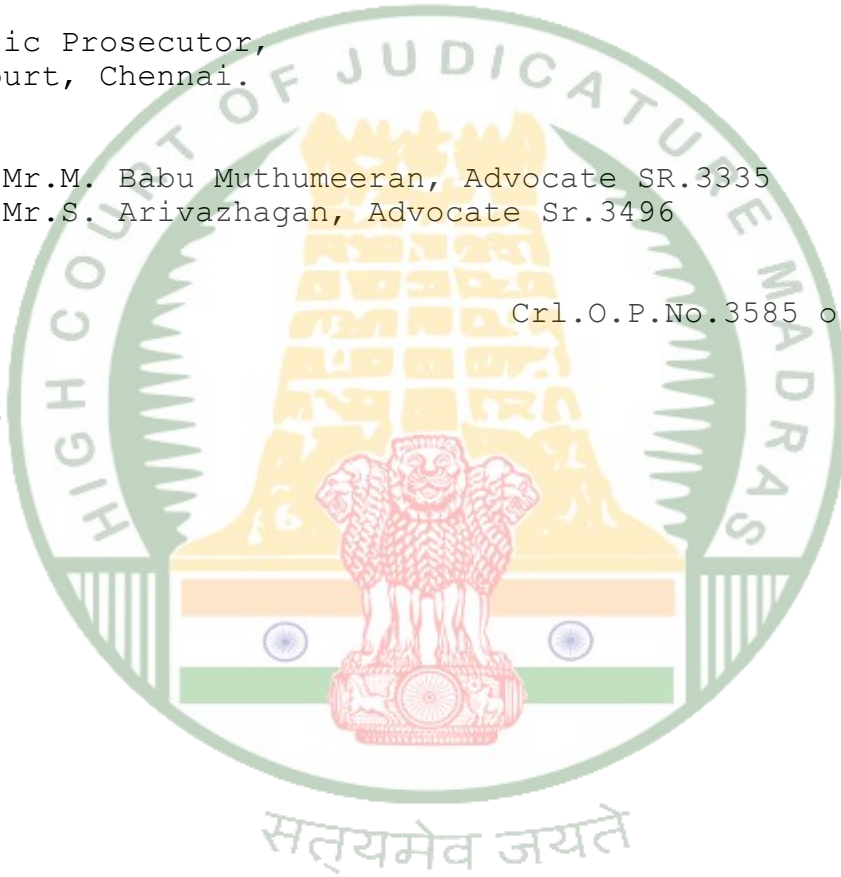
4.The Public Prosecutor,
High Court, Chennai.

+ 1 cc to Mr.M. Babu Muthumeeran, Advocate SR.3335

+ 1 cc to Mr.S. Arivazhagan, Advocate Sr.3496

Cr1.O.P.No.3585 of 2015

SCD(CO)
EU 22.1.16



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