

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2016

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.6986 of 2016
and
Crl.M.P.Nos.3646 and 3647 of 2016

1.S.Raja Jayapandian
2.R.Pechiammal Petitioners

Vs

1.The State Rep. by
Sub Inspector of Police,
w-26, All Women Police Station,
Ashok Nagar,
Chennai - 83.
(Crime No.14 of 2012)
2.Mrs.Thangabanumathy Respondents

Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records in C.C.No.1164 of 2013
on the file of the learned XVII Metropolitan Magistrate,
Saidapet, Chennai -15 and quash the same.

For Petitioner :Mr.M.Mohamed Rafi

For Respondents :Mr.C.Emalias

Additional Public Prosecutor for R1

O R D E R

Seeking quashment of the proceedings in C.C.No.1164 of 2013
on the file of the learned XVII Metropolitan Magistrate,
Saidapet, Chennai-15, the petitioner has filed the present
petition under Section 482 of the Code of Criminal Procedure.

2. The learned counsel appearing for the petitioners would
submit that the petitioners are the parents-in-law of the second
respondent. Since the second respondent is having extra marital
relationship with one Kannan, the husband of the second
respondent has filed a petition for divorce in H.M.O.P.No.22 of
2012 before the III Additional Sub Court, Madurai. The second
respondent has filed a petition in H.M.O.P.No.3276 of 2013 for
restitution of conjugal rights before the learned Principal

Judge, Family Court, Chennai. The learned counsel appearing for the petitioners further submits that with an ulterior motive, the second respondent has given a false complaint against the petitioners and their son viz., the husband of the second respondent on the allegation of dowry harassment. On the basis of the complaint given by her, a case has been registered in Crime No.14 of 2012 for the offences punishable under Sections 498(A), 406, 312, 294(b) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and after investigation, final report has been filed and the same has been taken on file in C.C.No.1164 of 2013 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai.15. The learned counsel appearing for the petitioners further submits that the petitioners are not residing along with their son and daughter-in-law and they are residing at Madurai. Therefore, the petitioners are no way connected with the alleged offence and they have been falsely implicated in this case. Hence, the petitioners have come forward with this petition for quashing the proceedings in C.C.No.1164 of 2013 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai.15.

3. Heard the learned Additional Public Prosecutor appearing for the respondent on the above submissions.

4. On a perusal of the typed set of papers, it is seen that petitioners' son has given a complaint on 05.12.2011 stating that his wife viz., the second respondent has received some message and also call from one Kannan. On the basis of the complaint given by the petitioners' son, enquiry has been conducted and during the course of enquiry, the said Kannan has appeared and has also undertaken that he will not do any such act in future. Thereafter, the husband of the second respondent, has filed a petition for divorce in H.M.O.P.No.22 of 2012 before the III Additional Sub Court, Madurai and the second respondent has filed a petition in H.M.O.P.No.3276 of 2013 for restitution of conjugal rights before the learned Principal Judge, Family Court, Chennai. The second respondent has given a complaint on 14.07.2012 alleging dowry harassment.

5. In such circumstances, it is a question of fact whether the ingredients of the provisions of law have been prima facie made out or not? Since the said question of fact can be decided only during trial, this petition deserves to be dismissed. One further reason for dismissing this petition is that in the instant case, though the final report has been filed in the year 2013 itself, this petition has been filed only in 2016, which clearly shows that the petitioner has filed this petition only to drag on the proceedings.

6. This Criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7. At this juncture, the learned counsel appearing for the petitioners submits that a direction may be issued to the trial Court to dispose of the case at the earliest and to consider the petition to be filed by the petitioners for dispensing with their personal appearance.

8. Considering the said submission, this Court directs the learned XVII Metropolitan Magistrate, Saidapet, Chennai -15 to dispose of the case in C.C.No.1164 of 2013 within a period of three months from the date of receipt of a copy of this order and the trial Court is also directed to consider the petition to be filed by the petitioners for dispensing with their personal appearance.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Sub Inspector of Police,
w-26, All Women Police Station,
Ashok Nagar,
Chennai - 83.

2.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

+lcc to Mr.Mohamed Rafi, Advocate, S.R.No.26745

MP(CO)
EU(22/04/2016)

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