



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2016

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P.(MD) No. 15157 of 2014

and

M.P.(MD)No.1 of 2014

1.L.Sempulingam

2.L.Archi

3.Meenal

4.Thennarasu

... Petitioners/A1 to 4

Vs.

1.State Rep. by:

Inspector of Police,

All Women Police Station,

Thirumayam,

Pudukottai District.

... Respondent/Respondent

2.Manickavalli

... Respondent /De-facto
Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records, quash and set aside the proceedings in C.C.No.66 of 2014 on the file of the District Munsif-cum-Hon'ble Magistrate Court, Thirumayam.

For Petitioners : Mr.M.Patturajan

For Respondent 1 : Mrs.S.Prabha

Govt. Advocate (Crl. Side)

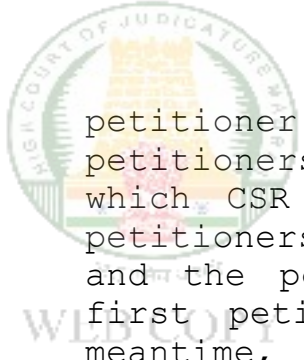
For Respondent 2 : No appearance

O R D E R

This petition has been filed seeking to call for the records pertaining to the proceedings in C.C.No.66 of 2014 on the file of the District Munsif-cum-Magistrate Court, Thirumayam and to set aside the same.

2.Even though notice against the second respondent has been served and her name was also printed, none appeared.

3.The counsel for the petitioners submitted that the first petitioner is the husband of the second respondent; that the second petitioner is the mother-in-law of the second respondent; that the third petitioner is the sister of the first petitioner and that the fourth petitioner is the husband of the third



petitioner. A false complaint has been foisted against the petitioners under the Domestic Violence Act on 03.08.2012 for which CSR number was given as 87 of 2012. According to the petitioners, the complaint was duly enquired into and was closed and the police advised the second respondent to live with the first petitioner. The counsel further submitted that in the meantime, out of wedlock the second respondent gave birth to a female child. Thereafter, once again another complaint dated 22.11.2013 was given by the second respondent. Since no action was taken on the said complaint, the second respondent filed CrI. O.P.(MD)No.22540/2013 wherein it was represented by the respondent police that the complaint has already been enquired into and closed and the same was recorded in the order dated 18.12.2013. The petitioner did not file any private complaint. According to the petitioners, there cannot be any action against them, when the complaints have been already closed and that the second respondent did not take any steps even though liberty was given to the second respondent to file a private complaint.

4.The Government Advocate (CrI. Side) appearing for the respondents would submit that the second complaint dated 22.11.2013 was closed and as far as the first complaint is concerned, it was taken in CSR No.87 of 2012, which was temporarily closed for want of a report from Social Welfare Officer. Further, she fairly submitted that the subsequent complaint dated 22.11.2013 was also closed.

5.In reply, counsel for the petitioners would submit that the second complaint dated 22.11.2013 is an offshoot to the first complaint and on receipt of the report from the Social Welfare Officer, further action has been initiated based on the second complaint dated 22.11.2013 and hence, the proceedings will have to be quashed.

6.Heard both parties.

7.Though the facts mentioned supra were not in dispute, a bare reading of the complaint dated 22.11.2013 discloses that the said complaint is not an offshoot to the first complaint dated 03.08.2012, as a report was called for from the Social Welfare Officer. The charge sheet filed before the District Munsif-cum-Judicial Magistrate, Thirumayam is not specific as to the date of the complaint and also the report of the Social Welfare Officer. If it is based on the individual complaint dated 22.11.2013, then it is bad in law and it is liable to be set aside. It is also seen that there is no iota of proof with regard to the CSR dated 03.08.2012 and also the comment of the Social Welfare Officer. It is also seen that the said CSR was temporarily closed. Therefore, the court is not inclined to accept the contention of the petitioners that the proceedings were initiated by the respondent police based on the second complaint dated 22.11.2013. However,



it is made clear that this order will not preclude the police or the second respondent to pursue the first complaint dated 03.08.2012 if not culminated into the second complaint dated 22.11.2013 on the basis of the report of the Social Welfare Officer.

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(*)The Criminal Original Petition is disposed of with the above observation.

Sd/-
Assistant Registrar(Crl.side)

**(*)Amended as per High Court order
dated 24.10.2016 made in
Crl OP(MD)No.15157/2014**

sd/-
Assistant Registrar (CO)

/True copy/

Sub AssistantRegistrar

To:

Substitute to the Order already dispatched on 19.02.2016

1. The District Munsif-cum-Judicial Magistrate,
Thirumayam.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.Patturajan, Advocate Sr.No.63210

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GJM/KP/SAR-I-9.11.16-3p-4C

Crl.O.P. (MD) No.15157 of 2014
27.01.2016