

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CrI.O.P.No.8304 of 2017
and CrI.M.P.No.5958 of 2017

1.Mani
2.Shanthi

.. Petitioners

Vs.

1. The State Rep. by the
Inspector of Police,
AWPS Thudiyalur Police Station,
Coimbatore District
(Crime No.48/2016)

2. Jeba

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to Cr.No.48 of 2016 on the file of the All Women's Police Station, Thidiyalur and to quash the same with respect to the petitioners/accused herein as illegal.

For Petitioners : Mr.Murugaiyan
For Respondent-1: Mr.P.Govindarajan, APP

ORDER

Heard Mr.Murugaiyan, learned counsel for the petitioners as well as Mr.P.Govindarajan, learned Additional Public Prosecutor

appearing for the first respondent. There is no appearance on behalf of the defacto complainant/second respondent inspite of her name being printed in the cause list today.

2.While the first petitioner is the father in law of the second respondent/defacto complainant, the second petitioner is the mother in law. The defacto complainant's marriage with the son of the petitioners took place on 28.10.2012. Subsequently, the defacto complainant and the petitioners' son moved to Bahrain on 28.04.2013. On her return from Bahrain for the purpose of her delivery, a son was born to them on 18.09.2013. It is the case of the defacto complainant that she could not reconcile with the petitioners' son after that. Hence, a petition in HMOP.No.866 of 2014 came to be filed before the Family Court, Coimbatore on 16.07.2014 wherein the parties agreed for a mutual divorce. It is stated that on the date of filing, the defacto complainant had received all her personal belongings. The said petition for mutual divorce came to be dismissed latter for non appearance. Subsequently, the defacto complainant claims to have given a complaint dated 09.07.2016 to the first respondent and since no action was taken, she had filed a petition in CrI.O.P.No.17056 of

2016 and by an order dated 16.08.2016, this court had directed the respondent to enquire into the complaint. Consequently, the case was registered against the petitioners in Cr.No.48 of 2016, challenging which, the present petition has been filed.

3.The learned counsel for the petitioners submitted that though there was a specific direction of this Court to enquire into the petitioner's complaint dated 09.07.2016, the first respondent had mechanically registered the complaint against the petitioners and others in Cr.No.48 of 2016 for an offence under Section 498 A of IPC. According to the learned counsel for the petitioners, no enquiry was conducted prior to registration of the case and therefore, prayed to quash the investigation in Cr.No.48 of 2016.

4.From a perusal of the complaint, it is seen that there is no serious allegations as against these petitioners so as to attract the provisions of Section 498 A IPC though the defacto complainant had referred to certain vague allegations of demand of dowry, the same need not be taken cognizance of in view of the fact, that the defacto complainant had earlier condoned all acts of cruelty as against the petitioners herein as well as all other persons while she

has chosen to file a petition seeking dissolution of marriage through mutual consent. The said petition for mutual divorce was filed on 16.07.2014 whereas the allegations as against the petitioners herein were made for such incidents that had occurred even prior to the filing of the mutual divorce petition. When the defacto complainant had chosen to condone the alleged acts of cruelty against the petitioners and her husband, the subsequent complaint of cruelty dated 09.07.2016 as defined under Section 498 A IPC and the cause of action that arose prior to the filing of the petition for divorce by mutual consent cannot be sustained.

5. In the result, the present criminal original petition deserves to be allowed insofar as the petitioners are concerned. Accordingly the proceedings in Cr.No.48 of 2016 insofar the petitioners are concerned on the file of the first respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No
DP

To

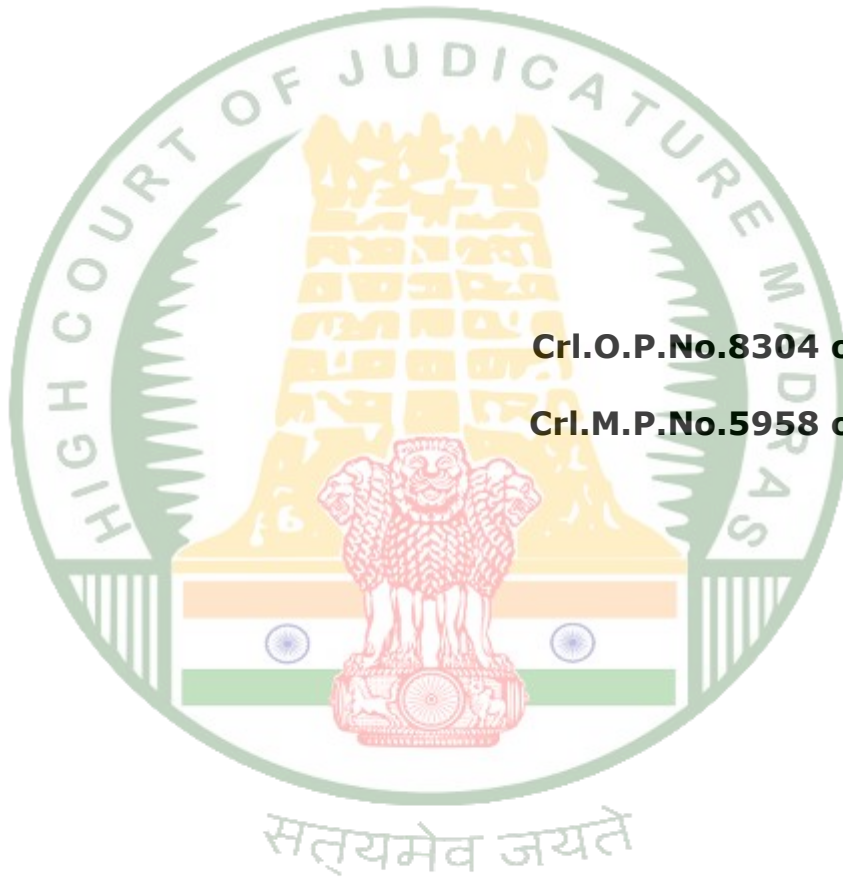
- 1.The Inspector of Police,
AWPS Thudiyalur Police Station,
Coimbatore District
- 2.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH.J,

DP



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