

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.18329 of 2011
and
M.P.No.1 of 2011**

1.Annamalai

2.Parameswari

... Petitioners

vs.

1.The Inspector of Police,
W26, All Women Police Station,
Ashok Nagar,
Chennai – 600 083.

2.G.Loganayaki
(R2 impleaded as per the order of Court
dated 05.07.2013 in MP.No.1 of 2013)

... Respondents

सत्यमेव जयते

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the Records and to quash the Charge Sheet in S.C.No.322 of 2011 on the file of the Principal Sessions Judge, Chennai.

For Petitioner : Mr.M.Vijayakumar

For Respondents : Mr.P.Govindarajan (for R1)
Additional Public Prosecutor

No Appearance (for R2)

JUDGMENT

This Criminal Original Petition is filed by the petitioners to quash the charge sheet laid against them in the above S.C.No.322 of 2011 for offences punishable under Section 498-A, 406 IPC and 4 of Dowry Prohibition Act. The petitioners are the accused A11 and A12 in S.C.No.322 of 2011. At the outset it is found that A11 has already died and hence the charge against him stands abated.

2.The case of the petitioners is that the 1st accused namely Elangovan and the de-facto complainant namely Loganayaki got married on 13.06.1985. Their marriage was an arranged one. The petitioners are the family friends of the 1st accused.

3.After their marriage there arose a misunderstanding between the 1st accused and his wife the de-facto complainant namely Loganayaki and out of the matrimonial dispute, a false complaint dated 25.11.1993 came to be lodged before the respondent police against her husband and the petitioners herein, whereby the F.I.R. in Crime No.18 of 1993 came to be registered under sections 498-A, 406 IPC and 4 of Dowry Prohibition Act.

In pursuant to the registration of the F.I.R., a charge sheet in

C.C.No.1121 of 1995 was laid down by the respondent police against the petitioners for the above alleged offences. Whereas for a subsequent investigation prayed by the de-facto complainant, further investigation was conducted by the respondent police and by amending the charge as against the 1st accused/husband of the de-facto complainant by adding Sections 506(ii) and 307 IPC, an amended charge sheet came to be filed by the 1st respondent police on 02.05.2011. Challenging the above charges leveled against the petitioners herein on the ground of abuse of process of law, the petitioners are before this Court by invoking Section 482 of Cr.P.C.

4.I heard Mr.M.Vijayakumar, learned counsel appearing for the petitioners and Mr.P.Govindarajan, learned Government Advocate (Criminal Side) appearing for the 1st respondent and there is no representation for the 2nd respondent/de-facto complainant.

5.The learned counsel for the petitioners would submit that the above charges are baseless, since on a bare perusal of the F.I.R. and the statements of the witnesses, there is no offence made out against the petitioners. The said allegations are utter false and the same could be ascertain from the very fact of failure on the part of the respondent to

mention the alleged dates, time and the over tact against the petitioners. The petitioners are innocent and they are roped into the false case for the only reason that they are the in-laws of the de facto complainant. The petitioners being the residents of different districts and different places are falsely implicated in the above false case.

6. Even according to the de-facto complainant the alleged occurrence has taken place in Chennai, the petitioners being inmates of different district who lives separately from that of the de-facto complainant and the 1st accused as well, were falsely inflicted with the above charges. The same is nothing but an abuse of process of law which is liable to be quashed.

7. Per contra, the learned Government Advocate (Criminal Side) appearing for the 1st respondent would submit that only on investigation and having found that some incriminating materials are set out in the complaint and the F.I.R., the above charges were laid against the petitioners. Only on further investigation conducted by the respondent police, by amending the charge as against the 1st accused/husband of the de-facto complainant by adding Sections 506(ii) and 307 IPC, an amended charge sheet came to be filed by the respondent police on 02.05.2011.

8. Hearing upon the rival submissions and on careful perusal of the F.I.R., statements of the witnesses and the charge sheet laid against the petitioners, this Court is able to see that the marriage between the 1st accused and the de-facto complainant/2nd respondent took place on 13.06.1985 and both the 1st accused and the de-facto complainant are working in government sector. The 1st accused was then found employed at Chennai and the de-facto complainant worked as Supervisor at Pullur Taluk and they together spent their weekend holiday at Chennai.

9. On perusal of the F.I.R. and the statement of the de-facto complainant made under Section 161 (3) of Cr.P.C., the latter seem to be identical with that of the F.I.R. On perusal of the same, it is noteworthy that in so far as, the allegations against the petitioners are concerned, they are found to be vague and bald without any reference to the date, time or the alleged role played by petitioners.

10. Majority of the petitioners are noticed to be residents of different places and different Districts and all lives separately from that of the 1st accused and the 2nd respondent as well.

11.The records further disclose that the earlier misunderstandings between and the 1st accused and the respondent was resolved and they were in the light of the counseling made by the Family Court, Chennai in divorce proceedings initiated by the 1st accused against the 2nd respondent, were reunited on 09.11.1993.

12.Whereas only thereafter the problem behind the above complaint dated 25.11.1993 occurred and the above complaint came to be lodged against the 1st accused and the petitioners herein. It is noteworthy that there is no specific over tack accepting accused the 1 to 3 who are the Husband, Father-in-law and Mother -in-law of the 2nd respondent. Now A2 and A3 were died.

13.Even according to the 2nd respondent and the F.I.R as well, the 11th and 12th accused are family friends and they are not relatives of the 1st accused. Nowhere, in the complaint or in the charge sheet leveled, the De Facto complainant was able to say as to how these petitioners were responsible for the alleged occurrence took place on 25.11.1993.

14.It is needless to say that the case on hand indicate and also falls as classical example of roping down the in-laws and still worse that even

family friend are roped down by a wife for dispute with that her husband.

15. In this context, this Court likes to emphasize the decision made by the Hon'ble Apex Court in the case of **Geeta Mehrotra & Anr. v. State of U.P.**, wherein it was held that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

16. The Decision made by the Hon'ble Apex Court in the case of **Ramesh v. State of Tamil Nadu** reported in **(2005) SCC (Cri.) 735** that allegations made against the husband, the in-laws, husband's brother and sister were bald allegations and appeared to suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the F.I.R. nor the charge sheet furnished the legal basis for the magistrate to take cognizance of the offences alleged against the in-laws of the Complainant. It was held that with regard to allegations in the F.I.R. and the contents of the charge sheet, none of the alleged offences under Section 498 A, 406 and Section 4 of the Dowry Prohibition

Act were made against the married sister of the complainant's husband who was undisputedly not living with the family of the complainant's husband. Accordingly, the proceedings against them were quashed.

17. In view of the foregoing facts and circumstances and in the light of the above decisions, this Court is of the opinion that the above Criminal Proceedings against the petitioners is allowed to be proceeded, the same as rightly contended by the learned counsel for the petitioners would be futile and abuse of process of law.

18. In the result, this Criminal Original Petition stands allowed and the Charges in above S.C.No.322 of 2011 for offences punishable under Sections 498-A, 406 IPC and 4 of Dowry Prohibition Act in so far as the petitioners alone is hereby quashed. Consequently, connected miscellaneous petition is closed.

Note: Issue order copy on 13.09.2017

Internet : Yes

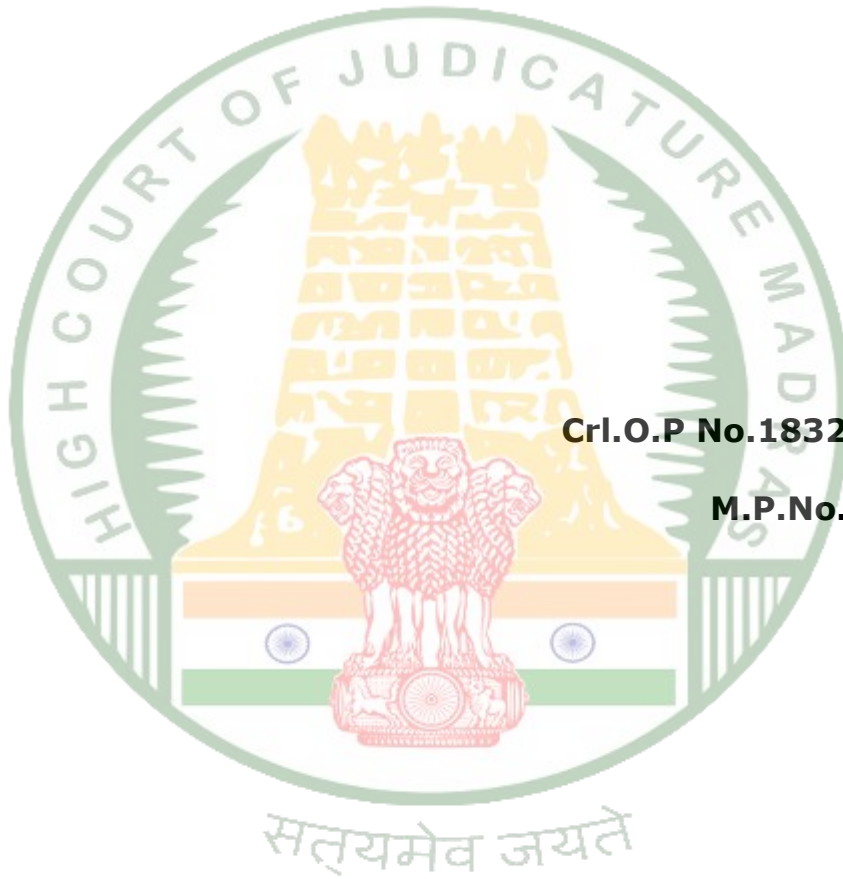
Index : Yes

vs

To
The Principal Sessions Judge,
Chennai .

M.V.MURALIDARAN,J.

VS



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