

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.09.2017
Pronounced on : 23.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH
Crl.O.P.No.8173 of 2016
& Crl.M.P.No.4277 of 2016

1.Mariya Cyril Christoper

2.M.J.Thanislaus

3.Sophiya

4.Mariya Edwin Jayanthi

5.Mariya Angel ... Petitioners/Accused 1 to 5

Vs.

1.State rep. by
The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai-45. 1st Respondents/Complainant

2.M.Lavanya 2nd Respondents/Complainant

Prayer: Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records in C.C.No.1043 of 2014
on the file of the learned Judicial Magistrate, Tambaram and
to quash the same.

For Petitioners : Mr.A.Raghunathan, Sr. Counsel
for Mr.P.Krishnan

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

For Respondent-2 : Mr.C.N.Vinobha

O R D E R

Heard Mr.A.Raghunathan, learned Senior counsel for the
petitioners and Mr.P.Govindarajan, learned Additional Public
Prosecutor for the first respondent as well as Mr.C.N.Vinobha,
learned counsel for the second respondent.

2.The brief facts of the case is as follows:

The second respondent/defacto complainant is the wife of the first petitioner. The petitioners 2 to 5 herein are the in-laws of the second respondent. The case of the petitioners is that since the first petitioner is a Christian, his marriage with the second respondent was not accepted by the family members of the second respondent. Owing to this, there were frequent disputes between the parties which culminated into filing of the present complaint by the second respondent.

3. According to the learned Senior counsel for the petitioners, on 16.02.2014, there was a clash between the second respondent's father and the first petitioner, owing to which, the complaint came to be lodged at Arakkonam Police Station. After enquiry, the Inspector of Police had directed the parties to appear before the All Women Police Station, Arakkonam on 23.02.2014. However, the second respondent, instead of appearing before the All Women Police Station, Arakkonam, had lodged a complaint on 23.02.2014 before the Inspector of Police, All Women Police Station, Gummipondi. Subsequently, on 09.05.2014, the second respondent lodged another complaint before the first respondent herein, suppressing the earlier complaints before the Arakkonam Town Police and All Women Police Station, Gummipondi, based on which, the first petitioner came to be arrested. The said complaint culminated into filing of charges under Section 498-A IPC in C.C.No.1043 of 2014 on the file of the learned Judicial Magistrate, Tambaram. According to the learned Senior counsel, no case has been made out as against the petitioners herein and as such, the proceedings are liable to be quashed. Even otherwise, the second respondent had falsely implicated all her in-laws and in the absence of any specific averments against her in-laws in the complaint, the same is liable to be quashed. In support of the same, the learned Senior counsel relied upon various judgments of the Hon'ble Apex Court and submitted that the complaint is made mala-fide for the purpose of wreck vengeance on the petitioners' family members.

4. The learned counsel for the second respondent on the other hand submitted that the charges have been framed against the petitioners with specific averments of harassment and dowry demand and therefore, sought for dismissal of the present petition. He further submitted that trial has commenced in the present proceedings and therefore, it would not be appropriate to interfere with the proceedings now.

5. I have given careful consideration to the submissions made by the respective counsels.

6. At the outset, it would be appropriate to point out that the impugned proceedings is in the stage of trial and P.W.1 has already been examined. At the belated stage, it would not be appropriate to interfere with the trial which had already been commenced. Though the learned Senior counsel for the petitioners has raised various grounds and made

submissions that no offence has been made out as against the petitioners, I am of the view that all these grounds can be raised in the trial and be substantiated during the course of trial. Since the trial has commenced in the present proceedings, it would not be appropriate for me to make any observations with regard to the grounds raised by the petitioners.

7. Without prejudice to the above observations, on a perusal of the statements of witnesses as well as the complainant, based on which the impugned charges have been framed, it is seen that there are specific allegations implicating all these petitioners for the offences under Sections 498A, 406, 506(i) IPC. When the charges are based on such statements implicating all the petitioners, it cannot be said that charges have been baselessly framed. The question is as to whether the petitioners have committed the offence or not, can always be established during the course of trial.

8. The learned Senior counsel by relying upon the judgments of the Hon'ble Supreme Court in *Shakson Belthissor V. State of Kerala* and another reported in 2009 (14) SCC 466, *Kaleel Ahamed Sahib and others V. State* rep. by the Inspector of Police, All Women Police Station, Sivakasi, Virudhunagar District and another reported in 2016 (2) MLJ CrL 440 as well as the judgment of the Hon'ble Supreme Court in *Preeti Gupta and another V. State of Jharkhand* and another reported in 2011 (2) MLJ (CrL) 89 (SC), submitted that the allegations in the complaint as well as the statements recorded, do not constitute an act of cruelty as envisaged under Section 498-A IPC.

9. There is no quarrel with regard to the aforesaid legal propositions and the circumstances under which charges can be quashed under Section 482 Cr.P.C. Whenever the ingredients of 498-A IPC is not made out, the High Court exercising its inherent power can quash the proceedings. However in the present case, there were materials before the Investigating Officer to implicate the petitioners for an offence under Section 498-A IPC among other offences. The question is as to whether the petitioners have committed the offence can be elicited by the petitioners during the course of trial and therefore, the aforesaid judgments relied upon by the learned Senior counsel for the petitioners may not be of much help.

10. In the result, the Criminal Original Petition stands dismissed.

11. At the time of pronouncing the order, the learned counsel for the petitioners submitted that the second petitioner is 70 years old and he is not in good health and therefore, he requested for dispensing with his appearance in the proceedings in C.C.No.1043 of 2014 on the file of the learned Judicial Magistrate, Tambaram.

12.Taking into consideration the age and health conditions of the second petitioner, the personal appearance of the second petitioner before the learned Judicial Magistrate, Tambaram in C.C.No.1043 of 2014 is dispensed with in all the hearings, except for such hearings where his personal appearance would be required. Consequently connected M.P. is closed.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

Index:Yes
Internet:Yes
DP

To

1.The Judicial Magistrate,
Tambaram.

2.The Inspector of Police,
W-35, All Women Police Station,
Tambaram,
Chennai-45.

3.The Public Prosecutor,
High Court, Madras.

+1 cc .Mr.P.Krishnan, Advocate sr.no.74900
+1cc Mr.C.N.Vinobha, Advocate sr.no.75060

सत्यमेव जयते

order made in
Crl.O.P.No.8173 of 2016
& Crl.M.P.No.4277 of 2016

RR 10/12/2016

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