



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.1045 of 2017

and

Crl.M.P. (MD) Nos.885 and 2210 of 2017

Niranjani : Petitioner/Accused No.6

-Vs-

1. The State Represented by
The Inspector of Police,
All Women Police Station,
Thiruverumbur,
Trichy District.
(Crime No.12 of 2015). : Respondent/Complainant

2.A.Nithya Pricila : Respondent/De-facto
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to the case in C.C.No.121 of 2016 on the file of the learned Judicial Magistrate Additional Mahila Court, Trichy and quash the same against this petitioner.

For Petitioner : Mr.R.Narayanan
For Respondent No.1:Mr.K.Anbarasan,
Government Advocate (Crl.side)
For Respondent No.2: Mr.P.Arun Jayatram

O R D E R

On the complaint lodged by Nithya Pricila (defacto complainant), the respondent police registered a case in Crime No.12 of 2015 and after completing the investigation, has filed a final report in C.C.No.121 of 2016 before the learned Judicial Magistrate Additional Mahila Court, Trichy, for offences under Sections 498(A), 294(b), 406, 495 of the Indian Penal Code and Section 4 of Dowry Prohibition Act against Mohaideen Quadir Ali and five others including Niranjani (A-6), for quashing which, Niranjani (A-6) is before this Court.



2. Heard the learned counsel for the petitioner, the learned Government Advocate (Criminal side) appearing for the first respondent and the learned counsel appearing for the second respondent.

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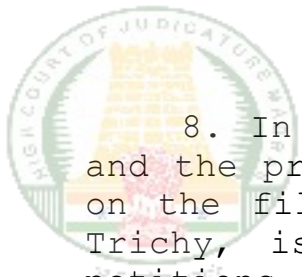
3. The learned counsel for the petitioner submitted that even if the entire complaint given by the *defacto* complainant, her 161 statement and the charge sheet is read, there is no allegation against Niranjani (A-6) that she had committed any of the offences enumerated in the charge sheet.

4. Per contra, the learned counsel for the *defacto* complainant submitted that the trial had begun in this case on 04.04.2017 and the *defacto* complainant has been examined as P.W.1 and, therefore, this Court should not interfere.

5. Under normal circumstances, when once the trial begins, this Court will be loath to interfere to stifle the prosecution. However, in this case, the allegation of the *defacto* complainant is that she got married to Mohaideen Quadir Ali (A-1) on 15.09.2007 and that her husband was working as Liaison Officer in Annamalai University, where Niranjani (A-6) was also employed. She has further alleged that her husband had developed illicit intimacy with the said Niranjani (A-6), pursuant to which, she was ill-treating her.

6. The learned counsel for the *defacto* complainant took this Court through 161 statement of the *defacto* complainant. On a perusal of the same, it is seen that except saying that her husband has been talking to Niranjani over phone very frequently and that he was having illicit intimacy with her, there is absolutely no shred of evidence against Niranjani for having perpetrated any act directly against the *defacto* complainant. The alleged affair of A-1 with Niranjani (A-6) may be a ground for causing mental cruelty to the *defacto* complainant, for which, A-1 alone can be held responsible and not Niranjani (A-6). Niranjani (A-6) does not fall within the meaning of the word "**relatives**" under Section 498(A) of the Indian Penal Code. As regards the contention against 495 of the Indian Penal Code, it is not the case of the *defacto* complainant that A-1 had married her. It is her only case that he has been talking to her continuously over mobile phone and that she suspects her husband's fidelity.

7. Under such circumstances, this Court is of the view that the prosecution against Niranjani (A-6) is indeed an abuse of process of law and has been predicated on surmises and suspicion of the *defacto* complainant.



8. In the result, this Criminal Original Petition is allowed and the proceedings against Niranjani (A-6) in C.C.No.121 of 2016 on the file of the Judicial Magistrate Additional Mahila Court, Trichy, is quashed. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (ADM-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate Additional Mahila Court,
Trichy.
2. The Inspector of Police,
All Women Police Station,
Thiruverumbur,
Trichy District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Narayanan, Advocate Sr.No.51809

sml

vb/kp/sar2/27.04.2017/3p/5c

**Order made in
CRL.O.P. (MD) No.1045 of 2017
Dated: 12.04.2017**