



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:21.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.6223 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

WEB COPY

1.Thirumalairaj

2.Natarajan

3.Maheswari

... Petitioners/Accused No.1 to 3

-Vs-

1. State represented by
All Women Police Station,
Madurai South,
Madurai.

In Crime No.21 of 2014. ... Respondent No.1/ Complainant

2. Mrs.Sangeetha ... Respondent No.2 /De-facto Complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.649 of 2014 on the file of the Judicial Magistrate Additional Mahila Court, Madurai and quash the same as illegal, abuse process of law.

For Petitioners	: Mr.M.Jothibasu
For Respondents	: Mr.K.S.Durai Pandian,
	APP for R1
	No Appearance for R2

O R D E R

This Criminal Original petition is filed for quash the proceeding in C.C.No.649 of 2014, on the file of the Judicial Magistrate Additional Mahila Court, Madurai.

2.The petitioners are the accused Nos.1 to 3 in the proceedings in C.C.No.649 of 2014 above referred to. The first petitioner is the husband of the second respondent. The second and third petitioners are the father and mother of the first petitioner.



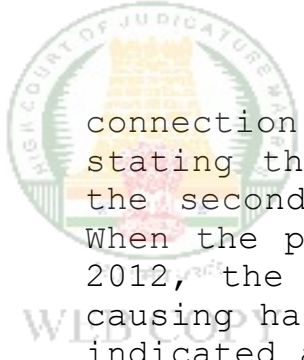
3.The learned counsel for the petitioner stated that the marriage between the first petitioner and the second respondent took place on 31.10.2011. Based on the complaint lodged by the second respondent a case was registered on 29.07.2014 by the All Women Police Station, Madurai South in Crime No.21 of 2014 as against the petitioners for offence under Section 498(A) I.P.C. After completing the investigation, the respondent police filed a charge sheet under Sections 498(A) and 406 I.P.C and the case was taken on file in C.C.No.649 of 2014 on the file of the Judicial Magistrate Additional Mahila Court, Madurai.

4.The learned counsel appearing for the petitioner also submitted that the complaint was lodged before the All Women Police Station, Madurai and the allegations found in the complaint are about the incidents that occurred, when the second respondent was residing in the matrimonial home. Since no part of incident/occurrence took place within the jurisdiction or area limit of the All Women Police Station, Madurai South, it is stated that the complaint is not maintainable. Therefore, it is submitted that the first respondent has no jurisdiction to investigate the case in Crime No.21 of 2014.

5.It is further submitted by the learned counsel for the petitioner, that the petitioner filed divorce petition in H.M.O.P.No.101 of 2014 before the Sub Court, Virudhunagar and obtained divorce by judgment and decree dated 08.12.2014. The petitioner filed the petition for divorce under Section 13(1) (i-b) of Hindu Marriage Act. The first petitioner was granted relief for divorce on the ground of desertion, as the second respondent was living separately for more than 2 ½ years after marriage. The petitioner filed H.M.O.P.No.101 of 2014 before the Sub Court, Virudhunagar.

6.It is to be noted that the wife has given no objection for granting relief of divorce to the husband, namely, the first petitioner. The allegations as against the first petitioner are not for any domestic violence but denial of conjugal rights. The complaint lodged by the second respondent appeared to be artificial and out of frustration. The learned counsel for the petitioner further stated that the second respondent has married with another person and that she is not interested in pursuing this Criminal complaint.

7.The second respondent did not appear, despite notice was served by the petitioner as well as by Court. Having regard to the fact that the complaint only contain certain allegations against the petitioners, at the time when she was living in the matrimonial home, the complaint lodged by the second respondent before the first respondent is not maintainable as the first respondent has no jurisdiction to proceed further in the enquiry in



connection with incidents occurred in Virudhunagar. Except stating that the first petitioner demanded more dowry as against the second and third petitioner there is no serious allegation. When the petitioner is admittedly living separately at least from 2012, the complaint lodged by the second respondent is only for causing harassment. Having regard to the facts and circumstances indicated above, this Court is inclined to allow this petition and the charge sheet in C.C.No.649 of 2014, on the file of the Judicial Magistrate Additional Mahila Court, Madurai, is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

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

+1cc to Mr.M.Jothibas, Advocate sr.No.88547

SSS

VB/KK/SAR3/12/12/2017/3P/5C

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