



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2017

CORAM:

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD) No.13653 of 2017
and
CRL.MP.(MD) No.9188 of 2017

1.G.Balasubramanian
2.Gopalakrishnan
3.Padmavathi
4.S.Balasubramanian
5.Rajeshwari
6.Vijayalaxmi

... Petitioners/Accused

Vs.

1. The State represented by
The Inspector of Police,
All Women Police Station,
Ambasamuthiram,
Tirunelveli District.

... 1st Respondent/Complainant

2.Revathy

... 2nd Respondent/De-facto
Complainant

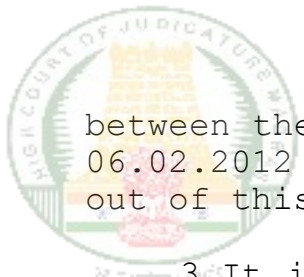
PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records connected with the FIR in Crime No.47 of 2013 pending before the 1st respondent and quash the same.

For Petitioners : Mr.R.Alugumani
For 1st Respondent : Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the entire records connected with the FIR in Crime No.47 of 2013 pending before the 1st respondent.

2.The first petitioner is the husband of the de-facto complainant and others are relatives of the first petitioner. The second respondent lodged a criminal complaint and the same was registered in Cr.No.47 of 2013 by the first respondent for the offences punishable under Sections 498(A), 406 IPC r/w Section 4 of The Tamil Nadu Prohibition of Harassment of Women Act and Section 4 of The Dowry Prohibition Act. It is not in dispute that the marriage



between the first petitioner and the second respondent took place on 06.02.2012 at Ambasamuthiram and they are also having a male child, out of this wedlock.

3. It is stated by the learned Counsel for the petitioners that the second respondent has given a complaint earlier which was referred to the District Social Welfare Officer on few occasions and that the District Social Welfare Officer after holding enquiry, had closed the complaint as no case was made out. Despite the fact that the District Social Welfare Officer has found that no case is made out either for dowry harassment or for any other harassment, the learned Counsel for the petitioner submitted that the de-facto complainant has given a false complaint once again before the first respondent, which has now been registered for the offences punishable under Sections 498(A), 406 IPC r/w Section 4 of The Tamil Nadu Prohibition of Harassment of Women Act and Section 4 of The Dowry Prohibition Act.

4. The learned Counsel for the petitioners mainly relied upon the report of the District Social Welfare Officer, Tirunelveli. It can be seen that while considering the petition of the de-facto complainant dated 17.04.2013, as the de-facto complainant had not attended the enquiry and failed to substantiate her case, the Dowry Prohibition Officer / District Social Welfare Officer has observed that the de-facto complainant has not made any attempt, to prove her case either by producing any oral or documentary evidence and closed the complaint.

5. The contention of the learned Counsel for the petitioners that the First Information Report should be quashed on the basis of the report of the District Social Welfare Officer, cannot be accepted. The learned Counsel for the petitioners himself admitted that the report of the District Social Welfare Officer is not on merits and it is on the ground that the de-facto complainant did not appear to establish her case before the District Social Welfare Officer. Further the complaint clearly discloses cognizable offences. Though the petitioners are denying the truth of the allegations made by the second respondent as against them, it is a matter for evidence and this Court cannot go in to the truth or otherwise. From the nature of allegations made in the complaint, no motive can be attributed in this case and it is the constant case of the wife that she has been harassed by her husband and by her in-laws.

6. Though the petitioners have given various factual details and pointed out that the complaint has been made on false allegations, this Court in exercise of power under Section 482 of Cr.P.C. cannot consider the merits of the statement of the petitioners at this stage. It is open to the petitioners to establish their case on merits before the appropriate forum. Having regard to the principle that has been reiterated by the Honourable Supreme Court and this Court on many occasions, this Court is not inclined to entertain



this petition. Hence this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
All Women Police Station,
Ambasamuthiram,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CMR

TE/KK/SAR-2 : 31/10/2017 : 3P/3C

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