



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP. (MD) .No.15003 of 2017

1. Syed Abuthahir
2. S.Noorjahan
3. S.Syed Sulthana
4. M.Mohamed Jahir

... Petitioners

Vs.

1. The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai.

2. Benazir

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the first respondent not to harass the petitioners, by interfering in a civil case in O.S.No.50 of 2017 pending before the Family Court, Madurai, without following due process of law.

For Petitioners
For R-1

: M/s.K.Muthumalai
: Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor.

ORDER

This Criminal Original petition is filed for issuing a direction to the first respondent not to harass the petitioners, by interfering in a civil case in O.S.No.50 of 2017 pending before the Family Court, Madurai, without following due process of law.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first



3. It is stated that the first petitioner is the husband and the second respondent is the wife and their marriage was solemnized on 20.06.2010 and that out of wedlock, the second respondent got two children.

4. It appears that there is a dispute between the first petitioner and the second respondent and as a result, the first petitioner has filed a Divorce petition before the Family Court, Madurai, in O.S.No.50 of 2017. However, the second respondent appears to have made a complaint before the first respondent and that it is also admitted that a preliminary enquiry was conducted by the first respondent and that again the first petitioner is asked to appear in connection with the complaint.

5. In the said circumstances, this Court is of the view that the scope of enquiry before registering a complaint is limited and the first respondent in this case cannot take the roll of Court as he is not an adjudicating authority either to resolve the dispute between the husband and wife or to give any relief to either parties. If the complaint makes out a cognizable offence, it is open to the first respondent to register a case and proceed in accordance with law. The first respondent need not call upon the petitioners repeatedly for an enquiry, as the scope of preliminary enquiry is only to enable the first respondent to find out whether there is any truth in the complaint so as to proceed in accordance with law. In such view of the matter, the Criminal Original petition is allowed. The first respondent shall not harass the petitioners. Even if the presence of the petitioners is required for any enquiry, the same can also be done only after issuing summons in the manner known to law and by following the guidelines issued by the Hon'ble Supreme court, in the case of D.K.Basu Vs. State of West Bengal.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar



1. The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.K.MUTHUMALAI, Advocate SR.No.85668.

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pmu
SDS/MR:KKR/SAR 2/24.11.2017/2P/4C