



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No.3500 of 2017

and

Crl.M.P. (MD) No.2616 of 2017

1.S.Ravikumar
2.Raman
3.Parameshwari

: Petitioners

-Vs-

1.The State represented by,
The Inspector of Police,
All Women Police Station,
Dindigul Town, Dindigul District.
(Crime No.39 of 2016)

2.Sumathi @ Lenal Sumathi

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the First Information Report in Crime No.39 of 2016, pending on the file of the first respondent and quash the same.

For Petitioners : Mr.G.Rajan

For Respondent No.1 : Mr.K.Anbarasan,
Government Advocate (Crl.side)

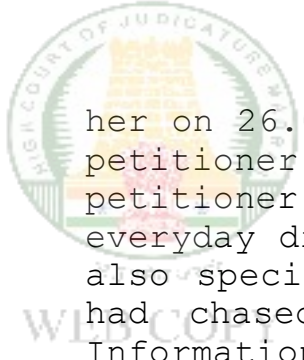
ORDER

On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.39 of 2016 on 01.12.2016 under Sections 294(b), 498(A), 506(1) of the Indian Penal Code and Section 4 of Dowry Prohibition Act, 1961, against the petitioners, challenging which, the petitioners are before this Court.

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

3. Today, Mrs.R.Eswari, Special Sub-Inspector of Police, Dindigul All Women Police Station, is present in Court.

4. It is the case of the *defacto* complainant that knowing full well that she is a divorcee, the first petitioner got married to



her on 26.05.2016 and she started living in the house of the first petitioner after the marriage. She has alleged that the first petitioner is working as a Salesman in the TASMAL and would come everyday drunk and start beating her demanding more money. She has also specifically alleged that on 04.09.2016, all the petitioners had chased her out from the matrimonial home. In the First Information Report, she has further alleged that on 11.09.2016, all the petitioners came to her parental home and started abusing her demanding more money as dowry.

5. The learned counsel for the petitioners submitted that the second petitioner is a bus driver and he was on duty on 04.09.2016 and 11.09.2016 and in support of this contention, he has produced the Certificate issued by his employer.

6. In the considered opinion of this Court, alibi is a question of fact, which cannot be gone into in a quash petition filed under Section 482 of the Code of Criminal Procedure. Since there are prima facie materials in the First Information Report, this is not a fit case to quash the prosecution at the threshold. Hence, this Criminal Original Petition is dismissed. However, the respondent police is directed to complete the investigation, bearing in mind the law laid down by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar** reported in **2014 (8) Scale 250**, and if it is found that the petitioners are innocents, it is needless to state that the prosecution against them should be dropped. The Deputy Superintendent of Police concerned is directed to monitor the investigation in Crime No.39 of 2016, on the file of All Women Police Station, Dindigul District. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

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

Copy to:

The Deputy Superintendent of Police,Dindigul.
+1 cc to Mr.G.Rajan , Advocate in SR.No. 18219
SML
AE/SV SAR4/13.02.2017/2P/5C