



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No. 4920 of 2017

and

Crl.M.P. (MD) Nos. 3483 and 3484 of 2017

1. Arul Kalavathi
2. Shanthadevi
3. Banu Jeyarani

: Petitioners

-Vs-

1. The State
By the Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.

2. Anbu Jothika

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records in respect of C.C.No.364 of 2015 on the file of the Judicial Magistrate, Srivaikundam, and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.D.Venkatesh
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.1 of 2015 and after completing the investigation, the police have filed a charge sheet in C.C.No.364 of 2015 before the learned Judicial Magistrate, Srivaikundam, for offences under Sections 294(b), 498(A), 406, 494, 506(ii) of the Indian Penal Code and Section 4 of Dowry Prohibition Act against seven accused, challenging which, Accused Nos.4 to 6 are before this Court.

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

3. On a reading of the charge sheet, it is alleged that the second respondent/defacto complainant got married to Vijaykumar (A-1) on 19.01.2011 and since she was not able to beget a child,



she was being tormented by the accused by calling her as barren. It is further alleged that the accused had demanded dowry from the *defacto* complainant.

4. Mr.D.Venkatesh, learned counsel for the petitioners submitted that the petitioners/accused Nos.4 to 6 are the sisters of Vijaykumar (A-1) and they were married and are living separately in their matrimonial home.

5. Per contra, the learned Government Advocate (Criminal side) refuted the submission.

6. On a reading of 161(3) Cr.P.C statement of the *defacto* complainant, it is seen that she has made specific allegations against the petitioners also. It is the specific contention that the petitioners also demanded 25 sovereigns of jewellery and cash of Rs.1,00,000/-. Of course, in **Arnesh Kumar Vs.State of Bihar** reported in **2014 (8) Scale 250**, the Hon'ble Supreme Court has stated that there is a tendency amongst wives to falsely implicate all the family members of the husbands to wreck vengeance. Since there are *prima facie* materials, this Court is of the view that this is not a fit case to quash the prosecution. However, the Trial Court shall bear in mind the law laid down by the Hon'ble Supreme Court as stated above and appreciate the evidence in the proper perspective.

7. With the above observation, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

8. At this juncture, learned counsel appearing for the petitioners submits that the presence of the petitioners before the Trial Court may be dispensed with.

9. Accepting the submission, this Court directs the petitioners to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioners file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses in their absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence.

Sd/-

Assistant Registrar (CS-II)



To

1.The Judicial Magistrate,
Srivaikundam.

2.The Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.

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

+1 CC to M/s.D.VENKATESH, Advocate, SR No. 54001

SML

PSM/MMS/05.05.2017/3P/5C

Order made in

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