



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2017

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No.8794 of 2017

1.M.Marisamy
2.M.Pandi
3.P.Jayapandi
4.G.Muniasamy
5.M.Pandiammal

... Petitioners

-Vs-

1. The Commissioner,
Madurai City,
Madurai.

2. The State Rep by,
The Inspector of Police,
All Women Police Station,
Madurai South, Madurai.

3.B.Barani

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Code of Criminal Procedure, to direct the respondent police not to harass the petitioners.

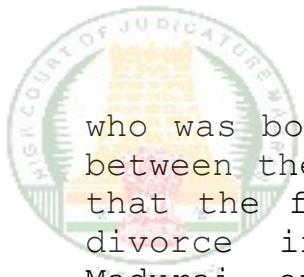
For Petitioners : Mr.G.Aravinthan
For R-1 & R-2 : Mr.K.Anbarasan,
Government Advocate(Crl.side).

O R D E R

This Criminal Original petition is filed for a direction to the respondent police not to harass the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the respondents 1 and 2.

3. The petitioners state that the first petitioner is the husband and other petitioners are the in-laws of the third respondent, who is the wife of the first petitioner. The petitioners further state that the marriage between the first petitioner and the third respondent was solemnized on 19.11.2009 and that out of their wedlock, they were blessed with a male child



who was born on 01.11.2011. It seems that there were some dispute between the husband and wife and as a result the petitioners state that the first petitioner was constrained to file a petition for divorce in H.M.O.P.No.400 of 2017 before the Family Court, Madurai, on the ground of cruelty.

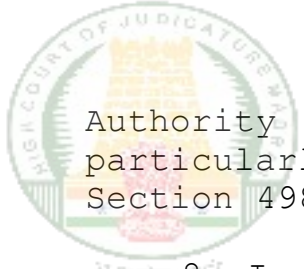
WEB COPY

4. It is further stated that the said petition was filed on 19.05.2017 and it was posted for the appearance of third respondent to file counter. However, in the meanwhile, the learned counsel for the petitioners submitted that after receiving a notice in the divorce petition, the third respondent lodged a complaint before the second respondent on 13.06.2017 and an enquiry was conducted on 15.06.2017. It is on the basis of the complaint not only the first petitioner and the members of the first petitioner's family, namely, petitioners 2 to 5 were called upon to attend enquiry by the second respondent. However, it is further stated that the second respondent on the basis of the complaint is harassing the petitioners. It is also stated that the first petitioner handed over the articles and jewels to the third respondent. The first petitioner himself admit the receipt of 10 sovereign golden jewels which were gifted at the time of marriage. However, it is alleged that the petitioners are unnecessarily put to harassment.

5. The learned Government Advocate (Criminal Side) produced a file to show that the first petitioner himself has given a letter stating that he would call the third respondent and live with him peacefully. It is also stated that he will hand over the golden jewels to the third respondent. When the first petitioner already filed a petition for divorce, the statement of the first petitioner cannot be on his own. Further, the undertaking to take the third respondent to live a happy life is contrary to the further statement which the first petitioner has made in the statement that he would also hand over all the articles and jewels to the third respondent.

6. In these circumstances, this Court is able to see that the petitioners are put to some harassment and coercion. The third respondent can resolve the matrimonial dispute by giving any complaint only in accordance with the provisions of various enactments which are meant to protect the rights and privileges of women in this Country from domestic violence.

7. The second respondent unless find that the allegations in the complaint disclose any cognizable offence, he cannot entertain any petition to harass anyone under the guise of enquiry. The Hon'ble Supreme Court has repeatedly held that the manner in which the enquiry in the case of this nature should be conducted. <https://hccourts.gov.in/services/> Referring to the Social Welfare officer or District Committee that is constituted as per the direction of the Hon'ble Supreme Court, the second respondent is not even a competent



Authority to entertain the complaint of women harassment, particularly, offences relating to domestic violence or under Section 498 I.P.C.

8. In that view of the matter, the Criminal Original Petition is allowed with a direction to the second respondent not to harass the petitioners under the guise of enquiry. Even if the presence of the petitioners is required for any enquiry, the same shall be done only after issuing summons prescribing date and time and in the manner known to law.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Madurai City,
Madurai.
2. The Inspector of Police,
All Women Police Station,
Madurai South, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD) No.8794 of 2017
30.08.2017

cp/pmu

JM/SV MMS/SAR 1/08.09.2017/3P/4C