



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2017

CORAM

THE HON'BLE MR.JUSTICE R.SUBBIAH**Crl.O.P. (MD) No.11216 of 2011****and****M.P. (MD) .Nos.1 & 2 of 2011**

1.Rajaraman

2.R.Meera

3.R.Balaji

4.S.Sumathi

... Petitioners/
Accused Nos.1 and 2

-vs-

1.State rep. by
the Inspector of Police,
Cheranmahadevi Police Station,
Tirunelveli District.
(Crime No.189 of 2009)... 1st respondent/
Complainant

2.S.J.Sekar

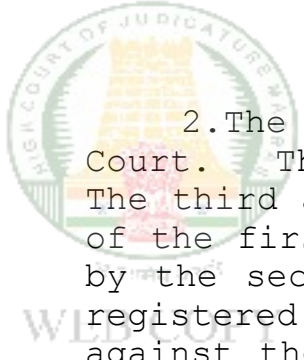
... 2nd Respondent/
Defacto complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the proceedings in P.R.C.No.21 of 2011 now pending on the file of the Judicial Magistrate, Cheranmahadevi and to quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.R.Alagumani

For 1st respondent : Mr.C.Mayilvahana Rajendran,
Addl. Public ProsecutorFor 2nd respondent : Mr.R.Manimaran**O R D E R**

This Criminal Original Petition has been filed seeking to quash the charge sheet filed for the offences under Sections 498-A, 306 r/w 34 IPC in P.R.C.No.21 of 2011, on the file of the learned Judicial Magistrate, Cheranmahadevi.



2. The petitioners are the accused Nos.1 to 4 before the trial Court. The first and second petitioners are husband and wife. The third and fourth petitioners are son and daughter respectively of the first and second petitioners. Based on the complaint lodged by the second respondent before the first respondent, a case was registered in Crime No.189 of 2009 under Section 174 Cr.P.C. as against the petitioners. The allegation made in the complaint is that the marriage between the third petitioner and one Kavitha was solemnized on 28.05.2009. Since the third petitioner was working at Madurai, he used to come and live with Kavitha at Cheranmahadevi on Saturdays and Sundays. On 07.06.2009, the first and second petitioner stated to the complainant that since the sridhana jewels are old, new jewels should be given, for which the complainant also conceded to the same. Thereafter, Kavitha stated to the complainant that the first petitioner has been torturing by compelling her to go for any job and to bring more dowry. While so, on 22.06.2009 ie. within 26 days from the date of marriage, the complainant came to know that her daughter committed suicide by hanging and hence, he has developed suspicion over the same. On completion of the investigation, a charge sheet was filed before the trial Court for the offences under Sections 498-A and 306 r/w 34 IPC and the same was taken on file in P.R.C.No.21 of 2011. Seeking to quash the same, the petitioners/A1 to A4 have come up with this petition.

3. It is the submission of the learned counsel for the petitioners that the meaning of the word "cruelty" as defined under the explanation (a) and (b) is not attracted even on the very statement said to have been recorded by the investigating agency and hence, Section 498-A IPC cannot be said to have been made out. Likewise, since there is no abetment at all alleged against the petitioners, the alleged offence of Section 306 IPC is not attracted. Thus, he sought for quashing of the charge sheet.

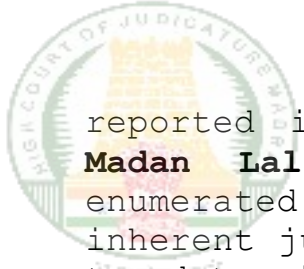
4. The learned counsel appearing for the respondents submitted that the prosecution has evidence to prove the guilt of the accused. Hence, this criminal original petition may be dismissed.

5. Keeping the submissions made by the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents, I have carefully gone through the entire materials available on record.

6. It is the main submission of the learned counsel for the petitioners that they did not have made any cruelty or abetment to the deceased Kavitha to commit suicide. According to the learned counsel for the respondents, they have evidence to prove the guilt of the accused.

<https://hcservices.ecourts.gov.in/hcservices/>

7. At this juncture, this Court is of the view that it is worthwhile to refer the decision of the Hon'ble Supreme Court



reported in "2013 Cri.L.J.1272 (Rajiv Thapar and others versus Madan Lal Kapoor", wherein, the Hon'ble Supreme Court has enumerated the steps required to be followed before invoking inherent jurisdiction by the High Court under Section 482 Cr.P.C., to determine the veracity of prayer made by an accused for quashment of the proceedings, as under:

"(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice? If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising there from) specially when, it is clear that the same would not conclude in the conviction of the accused."

8. Applying the above dictum to the case on hand, I am of the considered view that in this case, none of the steps, delineated by the Hon'ble Supreme Court in the above said decision, is satisfied and hence, the present Criminal Original Petition is liable to be dismissed.

9. Though the learned counsel for the petitioners vehemently argued that none of the offence has been made out, this Court is of the view that the same can be decided only after full trial. Without giving an opportunity to the respondents to prove their case through oral and documentary evidence before the trial Court, this Court cannot say that there is no evidence.



10. In view of the above, this Criminal Original Petition is dismissed. However, it is open to the petitioners to file petitions for dispensing with their personal appearance. On such an applications being filed by the petitioners, the trial Court shall dispense with their personal appearance, except the date on which their appearance is required. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(C)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Cheranmahadevi.

2.-Do-thro'The Chief Judicial Magistrate,
Tirunelveli.

3.The Inspector of Police,
Cheranmahadevi Police Station,
Tirunelveli District.

4.The Addl. Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.R.Manimaran , Advocate in SR.No. 9583

gcg

AE/RR/19.04.2017/4P/6C

Cr1.O.P. (MD) No.11216 of 2011
21.02.2017