

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.06.2018

Pronounced on : 19.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.20724 of 2010

and

M.P.No.1 of 2010

1.Thirumaran,
S/o. Balakrishnan.

2.Balakrishnan,
S/o.Chinnathambi.

3.Kamalam,
W/o.Balakrishnan.

4.Poonguzhali,
W/o.Ravichandran.

5.Ravichandran,
S/o.Viswanathan.

6.Ramesh,
S/o.Balakrishnan.

... Petitioners/Accused

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Jayamkondam,
Perambalur District,
[Crime No.14 of 2007]

... Respondent/Complainant

2.Mrs.Sudha,
W/o.Thirumaran.

... Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the criminal proceedings in C.C.No.277 of 2009 on the file of the Judicial Magistrate, Jeyangondam.

For Petitioners: Mr.T.Saikrishnan for
M/s. Sai Bharath and Ilan.

For R1 : Ms.V.Saratha Devi,
Government Advocate [Crl.Side]

For R2 : Mr.J.Raja Rao for
Mr.R.Saravana Kumar.

O R D E R

This Criminal Original Petition is filed to call for the records and quash the criminal proceedings in C.C.No.277 of 2009 on the file of the Judicial Magistrate, Jeyangondam.

2.The petitioners hearing who are the accused in C.C.No.277 of 2009, pending on the file of the Judicial Magistrate Court, Jeyangondam for the offences under Section 498 (A), and Section 4 of the Dowry Prohibition Act have filed this quash petition.

3.The case is being prosecuted by the first respondent and the Defacto complainant is the second respondent. The Defacto-complainant on 15.10.2007, had lodged a complaint with the first respondent, marriage between the first petitioner and the second respondent had taken place on 21.05.2004. During the marriage 45 sovereigns of gold and house hold articles were given as sreedhanas. After giving birth to a male child, the petitioners demanded a sum of Rs.50,000/- (Rupees fifty thousand only) from her and her parents for sending the first petitioner abroad and driven out the second respondent from her matrimonial home.

4.On 05.08.2007, the second respondent came to know the arrival of the first respondent from abroad and thereafter, she had called for a conciliation at the residence of the first petitioner's maternal Uncle at Meensuriti. During the conciliation, petitioners and others had ill treated the second respondent and tried to snatch her 'thali', threatened her not to go to the Police Station and lodge complaint against them.

5.This being so, on 12.10.2007, the second respondent came to know that the first petitioner had married another girl, hence, she had given a complaint before the first respondent against 14 persons and the first respondent has registered the complaint under Sections 498 (A), 494, 406 r/w Section 109 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

6. On investigation a charge sheet was filed and the petitioners have been arrayed as A1 to A6 for the offences under section 498 (A) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, which is pending trial in C.C.No.277 of 2009, before the Judicial Magistrate Court, Jeyangondam.

7. The contention of the learned counsel for the petitioners is that the first petitioner is the husband, second and third petitioners are the father-in-law and the mother-in-law of the defacto complainant/second respondent, fourth petitioner is the sister-in-law of the defacto complainant/second respondent, fifth petitioner is the husband of the fourth petitioner and sixth petitioner is the brother-in-law of the defacto complainant/second respondent.

8. It is an admitted case of the petitioners is that the fourth and fifth petitioners, who were married and living separately, as also the sixth petitioner is also living separately. The first petitioner was living with his parents i.e. 2nd and 3rd petitioners. Further, the contention of the learned counsel for the petitioners is that though the second respondent had initially given a complaint against 14 persons for various offences including misappropriation, abetment of second marriage of the first petitioner, which was dropped on investigation.

9. The first petitioner had filed a petition for Restitution of Conjugal Rights in H.M.O.P.No.149 of 2009 before the Subordinate Court, Chidambaram, which was pending enquiry. The second respondent had filed a Transfer Petition in Tr.C.M.P.No.246 of 2010 before this Court seeking transfer of H.M.O.P.No.149 of 2009 from the Subordinate Court, Chidambaram to the Sub Court, Trichy. She had also obtained a stay and hence, the H.M.O.P.No.149 of 2009 is kept pending.

10. Further, the contention of the learned counsel for the petitioners is that the first petitioner and the second respondent went to the parents house of the second respondent in the year 2007 and she did not return back to the matrimonial home. For which the first petitioner calling upon the defacto complainant/second respondent for resolution of marriage on the ground of desertion on 05.09.2007. After the receipt of the said notice the second respondent replied by the reply notice dated 15.09.2007 requesting the first petitioner for re-union and as such the first petitioner did not initiated any proceedings against her.

11. This being so, the second respondent had lodged a complaint on 15.10.2007 before the first respondent. The second respondent sought for re-union of marital life. On the other

hand, she had lodged a complaint, which would show that the allegations against the petitioners are false and only to wreck vengeance, the above case has been foisted against the petitioners. Further, the second respondent's father, who is working as Sub-Inspector of Police, Trichy Police, on his influence and pressure exerted by him the first respondent was forced to file a charge sheet against the petitioners herein.

12. On going through the complaint, the final report and the statements it is apparent that the second respondent and also the other witnesses have improvised their statements by giving exaggerated version of demand of Dowry, when no such demand was made by the petitioners. Further, it could be seen that after the child birth there have been a demand of Rs.50,000/- which was a later improvised after thought and a car is also said to have been demanded and the entire property of the second respondent was demanded to be settled in the name of the first petitioner.

13. The contention of the learned counsel for the petitioners is that these are all the exaggerated, imaginary version made by the second respondent and her family members to foist the above case against the petitioners and the second respondent's father, who is working in the Police Department had instigated the entire case against the petitioners, and a false case is foisted against the petitioners.

14. The learned Government Advocate had reiterated the allegations made in the charge sheet and stated that there are evidences of the witnesses who have spoken to about the demand of dowry and of subjecting the defacto complainant to cruelty, after proper investigation charge sheet has been filed against the petitioners and the petitioners have to face the trial.

15. On the submissions of the either side and the materials placed, it is seen that there is a lot of exaggeration, improvised version of demand and cruelty. Such kind of exaggerations are bound to be arised out of the matrimonial discord. On consideration of the materials available and the statements, it is an admitted case that the first petitioner residing with the second and third petitioners have a separate family, wherein the defacto complainant/second respondent was residing with them till she had gone back to her parents house. It is an admitted case that the fourth and fifth petitioners, who are the sister-in-law and the husband of the sister-in-law are residing elsewhere. Further, the sixth petitioner is the brother of the first petitioner, who is living separately. Other than the alleged mention of the petitioners 4, 5 and 6 said to have made on 29.03.2005 to settle the properties in the name of the first petitioner and there is no other specific over tact against them. Moreso, looking into the fact

that inordinate delay in preferring the complaint in the year 2007 by the second respondent to the first respondent nearly after two years. Cast, doubt and motive on the second respondent to implicate the entire family members of the first petitioner. The first petitioner is the husband of the second respondent. Other than the above averments, there is no materials against the petitioners 4, 5 and 6.

16. In such circumstances, sweeping allegations against the entire family members of the first petitioner, without any sustainable materials against them would be only an exercise in futility. Further, it is seen that the case has been referred to the Tamil Nadu Mediation Centre by this Court and the second respondent has been continuously absent for two sessions of mediation and thereafter, the case was referred back to this Court.

17. Considering the nature of the allegations and the relationship of the second respondent and the petitioners and also the second respondent's father, being in the Police Department and the allegations against the petitioners 4, 5 and 6 are vague, which leads to the conclusion that the allegations against them are made with an ulterior motive for wrecking vengeance on them with a view to spite for personal grudge.

18. In view of the above, the case as against the petitioners 4, 5 and 6 alone stands quashed. With regard to petitioners 1 to 3, the Criminal Original Petition stands dismissed. The trial Court is directed to proceed against the petitioners 1 to 3, who are A1 to A3 in C.C.No.277 of 2009. Further, the Lower Court is directed to dispose of the case as expeditiously as possible, without any delay, considering the case is pending from the year 2009.

19. In the result, the Criminal Original Petition is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Jeyangondam.

2.The Inspector of Police,
All Women Police Station,
Jayamkondam,
Perambalur District,
[Crime No.14 of 2007]

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s. Sai Bharath and Ilan, Advocate sr.no.48447

+1cc to Mr.R.Saravanakumar, Advocate sr.no.48334

Crl.O.P.No.20724 of 2010

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