

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2018

CORAM

THE HONOURABLE Mr. JUSTICE P.N.PRAKASH

CrI.O.P.No.21611 of 2018

and

CrI.M.P.Nos.11807 & 11808 of 2018

1.Arul Kumar

2.Saraswathi

... Petitioners/Accused 1 & 2

Vs

1.The State Represented by
The Inspector of Police,
All Women Police Station
Namakkal.

2.A.Vani

... Respondents/Complainant
& Defacto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in C.C.No.21 of 2018, on the file of the
learned Judicial Magistrate, Additional Mahila Court at
Namakkal, and quash the same.

For Petitioners : Mr.Ananda Narayanan
Senior Counsel
For Mr.S.M.Nandhie Devhan

For Respondents
For R1 : Ms.M.Prabhavathi
Additional Public Prosecutor

O R D E R

The prayer sought in this petition is to call for the
records in C.C.No.21 of 2018, on the file of the learned
Judicial Magistrate, Additional Mahila Court at Namakkal, and
quash the same.

2. The second respondent/de facto complainant A.Vani got
married to one Arul Kumar on 20.08.2012 and they have one child
through the wedlock. On the allegations that she was subjected
to cruelty by her husband and mother-in-law, Vani lodged a
complaint to the police, based on which a case in Cr.No.1 of
2015 was registered on 16.03.2015, under Sections 498-A and 506

(ii) I.P.C., and after completing the investigation, the police had filed a final report in C.C.No.21 of 2018, before the learned Judicial Magistrate, Additional Mahila Court at Namakkal against Arul Kumar (A1) and his mother Saraswathi (A2) for the offences under Sections 498-A and 506(ii) I.P.C., for quashing which, the accused are before this Court.

3. Heard Mr.Ananda Narayanan, learned Senior Counsel representing Mr.S.M.Nandhie Devhan, learned counsel on record for the petitioners/accused and Ms.M.Prabhavathi, learned Additional Public Prosecutor appearing for the first respondent.

4.Mr.Ananda Narayanan, learned Senior Counsel submitted that there is absolutely no iota of material as against Saraswathi (A2) and therefore the prosecution against Saraswathi (A2) is an abuse of process of law, and hence, the same should be quashed.

5. Per Contra, Ms.M.Prabhavathi, learned Additional Public Prosecutor submitted that Arul Kumar(A1) and Saraswathi(A2) had inflicted cruelty on the de facto complainant, and therefore, there are prima facie materials against both of them.

6. This Court gave its anxious consideration to the rival submissions.

7. On a reading of the complaint given by Vani and her statement under Section 161 statement, it is seen that she has stated that after the marriage, she lived with her husband for sometime in Bangalore; from Bangalore she was brought to the matrimonial home, where both her mother-in-law and her husband would demand more dowry from her and would also make her do all the household chores and inflicted cruelty on her; that she became pregnant in the year 2013 and even after delivery, neither her husband nor her mother-in-law came to see the child; that her husband initiated divorce proceedings in Bangalore; while the de facto complainant was alone at home, her husband came on 14.03.2015 at 11.00 A.M. and attacked her indiscriminately. Thus, on a complete reading of the Section 161 Cr.P.C. statement of Vani, it is clear that there are prima facie materials against both the accused for the Trial Court to proceed.

8. Hence, this Court feels that this is not a fit case to quash the prosecution. However, Saraswathi (A2) shall appear before the trial Court for receiving copies under Section 207 Cr.P.C., for answering charges under Section 215 Cr.P.C., for questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if she files an application under Section 317 Cr.P.C., undertaking that she will not dispute her identity and that, her counsel will cross-examine the witnesses

on the day they are examined in-chief, as held by the Supreme Court in Vinodh Kumar Vs State of Punjab [2015[1] MLJ [Cr1] 288], the same shall be liberally considered.

9. In the result, this criminal original petition stands dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vji/rts

To

1. The Judicial Magistrate,
Additional Mahila Court,
Namakkal.
2. The Inspector of Police,
All Women Police Station
Namakkal.
3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.21611 of 2018 and
Cr1.M.P.Nos.11807 & 11808 of 2018

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