

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.04.2018
PRONOUNCED ON : 07.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition No.27516 of 2017

1.K.Lakshmanan
2.L.Mallika ... Petitioners

Vs.

1.State represented by
the Inspector of Police
W-27, All Women Police Station
Vadapalani, Chennai 600 026.

2.C.Karuppan Chetty
3.K.Alamelu @ Indira ... Respondents

Prayer:- Petition filed under Section 482 Cr.P.C., to direct the 1st respondent to forthwith retrieve the dowry articles from the respondents 2 and 3 given by the petitioners at the time of the marriage of the petitioner's daughter on 10.02.2016 with the son of the respondents 2 and 3 and hand over the same to the petitioners.

For Petitioners: Mrs.Nalini Chidambaram
Senior Counsel
for Ms.C.Uma
For R1 : Mr.C.Raghavan
Government Advocate (Crl.Side)
For R2 and R3 : Mrs.J.Sundarakanchani

O R D E R

This petition has been filed to direct the 1st respondent to forthwith retrieve the dowry articles from respondents 2 and 3 given by the petitioners at the time of the marriage of their daughter on 10.02.2016 with the son of the respondents 2 and 3 and hand over the same to them.

2. For the sake of convenience, the parties will be referred to by their name.

3. Meenal, the daughter of the petitioners got married to Chockalingam, the son of the respondents 2 and 3 on 10.02.2016 at Sevvur Village in Sivaganga District. It is the case of the petitioners that, the respondents 2 and 3 demanded and obtained gold jewellery, silverware, diamond jewels and cash.

Admittedly, after marriage, Meenal and Chockalingam settled down in the U.S. and they are living there and litigating in the superior court of New Jersey, since their marriage had broken down. While so, the petitioners gave a representation dated 30.11.2017 to the first respondent police and has thereafter, filed the present petition with the above prayer.

4. Mrs.Nalini Chidambaram, learned Senior Counsel appearing for the petitioners submitted that the respondents 2 and 3 are liable for an offence under Section 3 of the Dowry Prohibition Act and therefore, the police should take action against them to recover the jewellery and cash.

5. Refuting the contentions, Ms.Sundarakanchani, learned counsel for the respondents 2 and 3 submitted that before the couple left for the U.S., they had kept all the jewellery given as present during the marriage to both parties in a safe deposit locker standing in the joint names of Karuppan Chetty, Chockalingam and Meenal. In support of this contention, she produced the locker receipt, a perusal of which shows that the locker stands in the name of the aforesaid three persons. It is the contention of Ms.Sundarakanchani that, the locker cannot be unilaterally opened by the respondents 2 and 3 unless the warring couple come down from the U.S.

6. The respondents have filed a counter affidavit, wherein, in paragraph 9 she has stated as follows:

"9, The respondents deny the allegation in Para-11 that, they are retaining the alleged dowry articles which are under their possession. In fact, as stated supra, the articles are traditional gifts and are kept in the native Village in the Locker as per custom in the joint name of the couple. Further, the respondents are residing at Chennai and they are not in physical possession of the alleged dowry articles. The Divorce case is pending from March, 2017 at New Jersey, U.S.A. The petitioners daughter has submitted to the jurisdiction of the same Court by filing reply and counter claim. Hence, in the above set of facts the respondents sent a reply to the Legal Notice issued by the petitioners dated 20.11.2017, conveying that, they will abide by the Court decision (New Jersey Court)."

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

8. At the outset, it is seen that the police have not registered any FIR so far. Even if an FIR is registered, this Court has no jurisdiction under Section 482 Cr.P.C. to direct the police as to how they should investigate the case. The matter is no longer res integra in the light of the judgment of the Supreme Court in Shariff Ahmed and others vs. State (NCT of Delhi) [(2009) 14 SCC 184], wherein, the Supreme Court after relying upon the celebrated judgment of the Privy Council in King Emperor vs. Khwaja Nazir Ahmad [(1943-44) 71 IA 203] has held that the Court cannot issue directions to the police as to what they should do. On this short ground alone, this petition deserves to be dismissed.

9. In fact, on the instructions of Chockalingam, his counsel in the U.S. has issued a notice dated 29.08.2017 to Meenal's counsel, wherein, it is stated as under:

"My client has agreed that he will return the following items:

a) Cash worth 600,000 rupees
b) Diamond Jewelry - 24 Ct (Approximately). He notes that he believed there was an error in your letter indicated 240 carats rather than 24, with an approximate value of 1,100,000 rupees;

c) Gold Jewelry - From the US safe deposit box (1 Bracelet, 1 Chain, 1 MangalSutra). To be exchanged and settled in India (1 Necklace (Kaluthir), Chains and Bangles).

d) Silver - As written in the book given by your client's family during the time of marriage. This will be handed over to your client's father in India, and her father shall sign a document saying that he has collected all the ornaments given as dowry to the groom family after collecting them.

Furthermore, my client asked that you client agree that they each shall waive and relinquish any and all rights that they may have over the jewelry that is given by the other which is currently residing at a safety deposit box in BOA, Red Bank. Since neither of them is to access the contents of the safe deposit box and take their belonging without the knowledge of the other, the parties should meet at a mutually convenient time to claim their respective belongings to avoid further dispute as to same. After this exchange, your client shall return the keys to the safe deposit box.

Additionally, the parties shall further agree that in light of the return of the dowry and other items consistent with Indian tradition, neither party nor their parents will bring any case in India related to divorce/settlement/dowry and agree to the settlement or judgment given in the United States."

All these developments have been suppressed by the petitioners in the complaint given to the police as well in this petition.

10. That apart, the learned counsel for the respondents has produced sufficient materials to show that Meenal and Chockalingam have initiated litigations in the family division of the superior Court of New Jersey. There is a locker in a Bank in Sivaganga District standing in the joint names of Karuppan Chetty, Chockalingam and Meenal and it is common knowledge that the same cannot be opened by one party.

In such view of the matter, this petition is devoid of merits and accordingly, the same stands dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
W-27, All Women Police Station
Vadapalani, Chennai 600 026.

2.The Public Prosecutor
High Court, Madras.

+1cc to Ms.C.Uma, Advocate Sr.No.35160

+2cc to Ms.J.Sundarakanchani, Advocate Sr.No.35436

KK(CO)

sm:13.6.2018

Cr1.O.P.No.27516 of 2017