

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Cr1.O.P No.19976 of 2010
and
M.P.Nos.1 and 2 of 2010

1.P.Adhimoolam
2.Vanaja

... Petitioners

vs.

1. State by
The Inspector of Police,
Investigating Officer,
Hosur Town Police Station (In charge),
All Women Police Station,
Hosur.
(Crime No.7 of 2010)

2. B.Sridevi
(Impleaded the 2nd respondent as per the
order of this Court dated 17.09.2010
in M.P.No.3 of 2010)

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.75 of 2010, on the file of the Learned Judicial Magistrate No.2, Hosur and quash the same.

For Petitioners : Mr.Yogesh Kannadasan

For Respondents : Mr.B.Ramesh Babu (for R1)
Government Advocate (Cr1.Side)

Mr.S.Subramanian (for R2)

JUDGMENT

The petitioner is before this Court invoking the inherent power of this Court under Section 482 of Cr.P.C seeking to quash the C.C.No.75 of 2010 on the file of the Hon'ble Judicial Magistrate-2, Hosur on the basis of a complaint given by the 2nd respondent namely Ashwin Naidu.

2.The brief facts of the case run as follows that the petitioners herein are the in-laws of the 2nd respondent, wife seeking to quash the above Charge Sheet in C.C.No.75 of 2010 which came to be taken on file by the Learned Magistrate on the basis of a FIR in Crime No.7 of 2010 dated 09.03.2010 under Section 498(a) IPC that came to be registered by the 1st respondent over 2nd respondent's/de-facto complainant's complaint dated 17.01.2010 for the alleged cruelty faced by her in her matrimonial house. The petitioners herein are the father-in-law and the mother-in-law of the 2nd respondent ranked as accused No.2 & 3 respectively in the above Charge Sheet. The 1st accused, husband is not before this Court.

3.The marriage between the 2nd respondent and the petitioners' son was an arranged one which took place on 06.07.2006. After their marriage they started their matrimonial life in a separate house in Hosur. Both the petitioners' son and the 2nd respondent are graduates. Misfortunately not more than one year from the date of marriage, their matrimonial life gone peril due to the perpetual disputes between the husband and wife and the same made the 2nd respondent to quit her matrimonial house in spite of her pregnancy. Thereafter she started living in her parental home at Dharmapuri under the care of her parents, wherein she gave birth to a male child on 09.05.2007. In the meantime during her pregnancy, when the uncle of the 2nd respondent went to the house of the accused/petitioners for inviting them to the Valaikappu ceremony of the 2nd respondent, there was a demand of Rs.5,00,000/- made by the petitioners to make their son to live with the 2nd respondent. Thereafter on 10.01.2010 there was a call made over phone by the 2nd respondent, calling upon the petitioners son/1st accused to live together, for the sake of their son, for which the 1st accused refused. Hence with no other go on 23.02.2010 the de-facto complainant in person went to the petitioners' house with a plea for reunion with her husband. However the de-facto complainant was prevented by the petitioners from entering their house by locking the main doors of the house. Thereby the petitioners' by making her to stand outside the house have involved in the offence of cruelty attracting 498 (A) IPC. Therefore the above complaint was preferred and after investigation over it by the 1st respondent, the corresponding final report in above C.C.No.75 of 2010 came to be filed charging the petitioners' under Section 498 (A) IPC. Challenging the subject charge sheet as illegal, unsustainable and abuse of process of law the petitioners are before this Court through the instant petition to quash the criminal proceedings.

4. On careful and repeated perusal of the charge sheet it is noticed by this Court that there are two allegations leveled against the petitioners as follows that:

When the uncle of the 2nd respondent went to the house of the accused/petitioners for inviting them to the valaikattu ceremony of the 2nd respondent, there was a dowry demand.

5. By demanding dowry the De-facto complainant was prevented by the petitioners from entering their house by locking the main doors, thereby the petitioners' by making her to stand outside have involved in the offence of cruelty.

6. I heard Mr. Yogesh Kannadasan, learned counsel for the petitioners and Mr. B. Ramesh Babu, learned Government Advocate for the 1st respondent and Mr. S. Subramanian, learned counsel for the 2nd respondent and perused the entire records.

7. On perusal of the typed set of papers it is noticed by this Court that the matrimonial life of the petitioners' son and the 2nd respondent is not fine and was felt as irretrievable break down, because of which the petitioners' son has filed a divorce petition in M.O.P.No.24 of 2007 on the file of the Subordinate Judge, Hosur, under Section 13(1) (i) (a) of Hindu Marriage Act. It is further found that the 2nd respondent has also filed her counter in the year 2008 by denying the allegation of cruelty stated by the 1st accused. It is significant and more particularly indispensable to note that in the said counter filed by the 1st respondent dated 26.06.2008, there is no any whisper alleging or imputing the petitioners' herein with any ill deeds or any demand. Later, on technicality the above divorce petition was withdrawn by the petitioners' son with liberty and a fresh divorce petition in M.O.P.No.17 of 2010 came to be filed. In the meantime either of the parties preferred a police complaint, such that the petitioners' son for police protection and the 2nd respondent for reunion.

8. This Court on careful perusal of records finds two dates as crucial dates before determining as to whether the complaint on hand is liable to be quashed. The said dates are 27.03.2007 and 23.03.2010 alleged to be the date of occurrence of offence of 498(A).

9. According to the 2nd respondent it was on 27.03.2007, when the uncle of the 2nd respondent went to the house of the accused/petitioners there was a dowry demand.

10. Secondly, it was on 23.03.2010, de-facto complainant was prevented by the petitioners from entering their house by locking the main doors.

11. At this juncture this Court finds that though the alleged occurrence is said to have taken place in the year 2007, the 2nd respondent in his counter filed in the year 2008 in the divorce proceedings initiated by the petitioners' son has neither stated nor even alleged any ill deeds as against the petitioners herein. In fact the Counter exclusively projects the 1st accused as the sole offender and reason for the matrimonial dispute. Therefore in a provided circumstance that it is the specific case of 2nd respondent that the demand was made to her uncle in the year 2007 and she came to know through him, this Court is of firm view that it cannot form a basis for criminal prosecution, such averment is nothing but hearsay then.

12. Coming to the next allegation that she was prevented by petitioners from entering into their house, this Court like to emphasis the admitted case of the 2nd respondent that her matrimonial life begun in a separate house in Hosur with the petitioners' son. It is not in dispute that she is living in her parental house at Dharmapuri for the preceding 4 years. Further the records disclose exchange of notices between the 1st accused husband and the 2nd respondent. Again either party is found preferring complaints against each, before the police station such that the 1st accused' husband seeking police protection and the 2nd respondent wife seeking reunion. In such being the fact, this Court is not inclined to accept the version and conduct of the 2nd respondent that she was prevented by her in-laws from entering their house.

13. It is needless to say that both the petitioners are aged more than 60 years and even it is assumed that they have closed their House doors, it may not be termed or equated to be a cruelty faced by a wife, who was not resident therein for the preceding 4 years, but the same would be only for their security purpose.

14. That apart the allegations are very blurred and manifestly attended with malafide intention for wreaking vengeance. The allegations made are so absurd and inherently improbable on basis of which it is not possible to proceed with criminal prosecution against the petitioners herein.

15. Before parting with the case, this Court likes to hold that the case on hand too is a classical example of abuse of process of law and misuse of a protection measure envisaged for a real victim wife. It reiterates that living away from a family

does not save the parents from false cases by their daughter-in-laws.

16.In the result, this criminal original petition is allowed and the proceedings in C.C.No.75 of 2010 on the file of the learned Judicial Magistrate No.2, Hosur is hereby quashed in so far as the petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

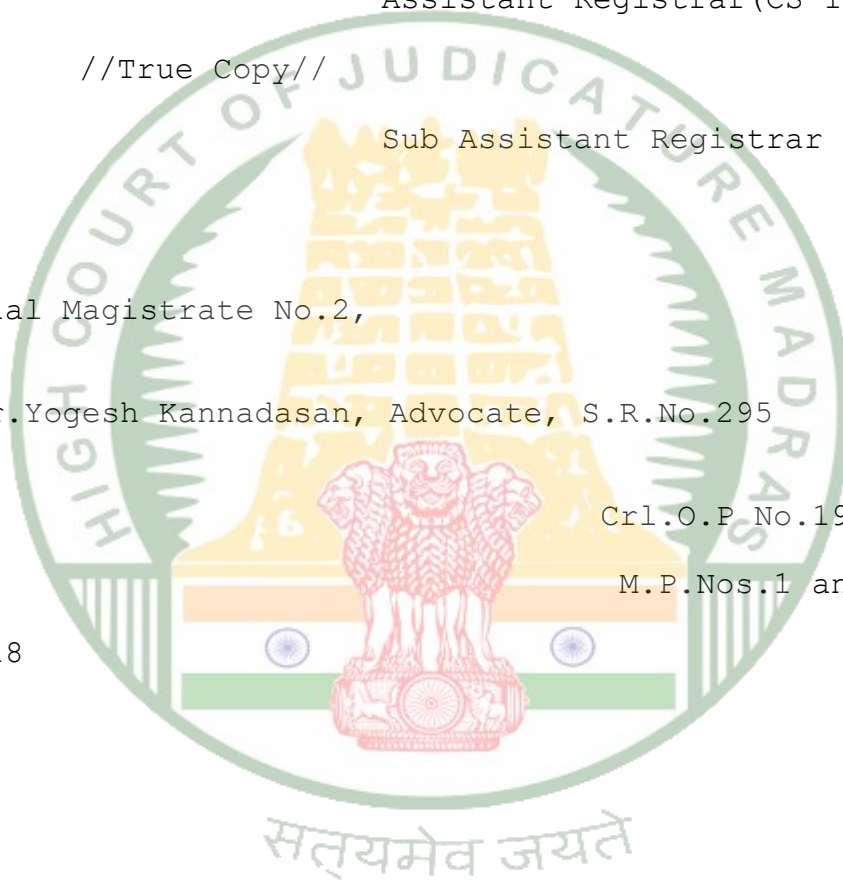
To

The Judicial Magistrate No.2,
Hosur.

+1cc to Mr.Yogesh Kannadasan, Advocate, S.R.No.295

Crl.O.P.No.19976 of 2010
and
M.P.Nos.1 and 2 of 2010

CS/19/01/18



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