

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.16878 of 2017

and

Cr1.M.P.Nos.10374 & 10375 of 2017

1. Mrs.Molly Abraham

2. Prize Abraham

... Petitioners

Vs.

1. State Represented by

The Inspector of Police,
W-22, All Woman Police Station,
Mylapore, Chennai.
(Crime No.9 of 2014)

2. Minu Susan Mathew

... Respondents

Prayer: Criminal Original petition filed under Section 482 of the Criminal Procedure Code, to call for the records in S.C.No.155 of 2017 in the Court of the learned Additional District Judge (Mahila Court), Chennai in Crime No.9 of 2014 on the file of the first respondent and quash the same.

For Petitioners: Mr.R.John Sathyan

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : M/s.V.Sarojini

O R D E R

This petition has been filed seeking to quash the proceedings in S.C.No.155 of 2017 pending on the file of the learned Additional District Judge (Mahila Court, Chennai).

2. The petitioners have been added as A2 and A3 in the final report. The first petitioner is the mother-in-law of the second respondent and the second petitioner is the brother-in-law of the second respondent. Based on the complaint given by the

second respondent, an FIR came to be registered by the respondent police against the husband and also these petitioners for an alleged offence under Sections 498, 294 (b), 406, 324, 307 of IPC r/w Section 34 of IPC. After completion of the investigation, the final report has been filed before the concerned Magistrate Court and the case was committed and taken on file by the learned Additional District Judge (Mahila Court, Chennai) in S.C.No.155 of 2017 against all the three accused persons for an alleged offence under Sections 498, 294 (b), 406, 324, 307 of IPC r/w Section 34 of IPC.

3. The learned counsel for the petitioners would submit that the entire allegation made in the complaint as well as in the final report and also the statements given by the witnesses, is only as against A1/husband and the in-laws have been unnecessarily roped in as accused persons. The learned counsel for the petitioners brought to the notice of this Court, the divorce petition filed by the second respondent in O.P.No.900 of 2014 on the file of the Family Court, Ernakulam, seeking for return of articles and also for money, wherein the second respondent has stated about the very same incidents that happened on 12.04.2014 and 25.04.2014. While explaining the incident in the petition, there is absolutely no reference made to the petitioners and the entire allegation was only as against the husband. However, while giving the complaint and while giving statement before the respondent police, the second respondent has intentionally roped in name of the first petitioner, as if she also participated in the attack made against the second respondent. The learned counsel for the petitioners would further submit that there is absolutely no material or allegation made against the second petitioner, who is the brother-in-law and he has been unnecessarily added as an accused in this case.

4. The learned Additional Public prosecutor representing the first respondent and also the learned counsel for the second respondent submitted that there are sufficient materials against these petitioners and this Court should not interfere with the proceedings at this stage and the petitioners must be made to face the trial before the Court below.

5. This Court has carefully considered the submissions made on either side.

6. A reading of the complaint as well as the statements given by the second respondent to the Investigating Officer reveals the fact that the entire allegations have been made only as against the husband who has been added as A1. The second respondent has roped in the first petitioner/mother-in-law only on the ground that during the incident that took place on 25.04.2014, she also joined the husband in attacking the second respondent. However, while reciting the very same incident

before the Family Court, Ernakulam during the year 2014, the second respondent has not even made a whisper against the first petitioner with regard to the incident that is alleged to have taken place on 25.04.2014. Therefore, it is very clear that as an after-thought, the second respondent has roped in the first petitioner as an accused by making a general allegation against her in the incident that is said to have taken place on 25.04.2014.

7. Insofar as the second petitioner is concerned, there is absolutely no material against him. It is stated in the complaint as well as the statement given to the Investigating Officer that the second petitioner had taken away the child to his custody at the time of the incident. Except this statement, there is no other material or allegation made against the second petitioner.

8. In view of the above discussion, it is clear that no case has been made out as against these petitioners in the final report. These petitioners have been unnecessarily added as accused persons in the final report and the Court below has taken cognizance against these petitioners in a mechanical fashion. The continuation of the proceedings as against these petitioners will amount to abuse of process of Court and therefore, this Court has to necessarily interfere with the same in exercise of its jurisdiction under Section 482 of Cr.P.C.

9. In the result, the proceedings in S.C.No.155 of 2017, on the file of the learned Additional District Judge, (Mahila Court, Chennai) is hereby quashed insofar as the petitioners herein are concerned. The Court below shall proceed further with the proceedings insofar as A1 is concerned and shall complete the proceedings within a period of four months from the date of receipt of a copy of this order.

10. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

dss

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Judge (Mahila Court),
Chennai.

2. The Inspector of Police,
W-22, All Woman Police Station,
Mylapore, Chennai.

3. The Public Prosecutor,
Madras High Court.

+2cc to Mr.R.John Sathyan, Advocate, SR.NO.1285

Cr1.O.P.No.16878 of 2017

kak(25/01/2019)