

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.22920 of 2018
and
Cr1.M.P.No.12813 of 2018

1.Angayarkanni @ Abinaya
2.Thiyagarajan @ Raja

... Petitioners

Vs.

1.The State rep. by
The Inspector of Police,
AWPS West,
Coimbatore City.

2.Kavitha

...Respondents

Prayer: Criminal Original petition filed under Section 482 of the Criminal Procedure Code, to call for the records in the FIR in Crime No.1 of 2018 dated 08.04.2018 on the file of the first respondent and quash the same.

For Petitioners : Mr.N.Ramakrishnan
for M/s.Waraon and Sai Rams

For Respondent 1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent 2 : Mr.G.Mani Prabhu
for C.Santhosh Kumar

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.1 of 2018, pending on the file of the first respondent-

police.

2. The petitioners have been added as A4 and A5 in the FIR. The second respondent married one Subramanian on 29.06.2014. There was a matrimonial dispute, which resulted in the second respondent filing H.M.O.P.No.254 of 2015, against the said Subramanian seeking for the relief of Restitution of Conjugal Rights. Simultaneously, the said Subramanian also filed a petition for divorce against the second respondent in H.M.O.P.No.124 of 2016. While these disputes were pending, a complaint came to be given before the respondent police and based on the said complaint, the respondent police have registered an FIR against the five accused persons for an offence under Sections 498 (a), 406 and 506 (i) of Indian Penal Code.

3. The learned counsel for the petitioners would submit that the first petitioner was married to the second petitioner much prior to the marriage of the second respondent and at no point of time, these petitioners had lived with the second respondent and her husband. The learned counsel would further submit that in the HMOP petition filed by the second respondent, there is absolutely no allegation as against these petitioners and only in the complaint given before the police, allegations have been made against these petitioners. The learned counsel for the petitioners also brought to the notice of this Court about a particular incident, which has been explained in the HMOP, where the names of these petitioners are completely absent and when the same incident is narrated in the complaint, the names of these petitioners have been added. By pointing out to the same, the learned counsel for the petitioners would submit that these petitioners have been implicated only with a view to harass them.

4. The learned counsel for the second respondent would submit that the marriage was conducted by spending a lot of money and by giving Seethana to the second respondent. The learned counsel would further submit that the second respondent has gone through cruelty in the hands of the accused persons and the parties are at loggerheads right from the year 2015 onwards. The learned counsel would further submit that after the complaint was given before the second respondent police, the respondent police had served three summons to these petitioners asking them to attend for enquiry and these petitioners did not attend for enquiry and therefore, the respondent police have added them as accused in the FIR. The learned counsel also submitted that there are sufficient allegations in the FIR against these petitioners and therefore, the investigation must proceed and this Court should not interfere with the investigation at this stage.

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

6. The petitioners are the sister-in-law and the husband of the sister-in-law of the de-facto complainant. The learned counsel for the petitioner submitted that the petitioners got married much prior to the marriage of the second respondent and they have been living separately. The Hon'ble Supreme Court has time and again cautioned the police as well as the Court exercising its jurisdiction under Section 482 of Criminal Original Petition to be more careful while adding the in-laws as an accused in criminal cases. Therefore, unless and otherwise there are very serious allegations been made against the in-laws and there are materials to substantiate the same, the in-laws should not be automatically made as accused based on certain general allegations in the complaint.

7. In the instant case, there is reference against these petitioners in the complaint with regard to an incident, which is said to have taken place during the first wedding anniversary. This incident has also been narrated in the HMOP filed by the second respondent in HMOP. No.254 of 2015. But, in the HMOP petition there are absolutely no allegations against these petitioners and the entire allegation has been made only as against the husband and his parents. While, narrating the very same incident in the criminal complaint, the names of these petitioners have also been added. It is to be borne in mind that the HMOP petition was filed in the year 2015 and the complaint was given in the year 2018. Therefore, obviously the second respondent has attempted to exaggerate the entire incident by adding the names of these petitioners.

8. Apart from the above, this Court is not able to see any other specific allegations made against these petitioners. Therefore, this Court is of the considered view that the continuation of the investigation as against these petitioners will amount to abuse of process of law. This Court has taken into consideration the guidelines given by the Hon'ble Supreme Court in Rajesh Sharma and others vs. State of Uttar Pradesh and another reported in (2017) 3 MLJ Criminal Page No.602.

9. In the result, the FIR in Crime No. 1 of 2018, pending on the file of the respondent police is hereby quashed, insofar as these petitioners are concerned. It is made clear that the respondent police can proceed further with the investigation insofar as the other accused persons are concerned. The investigation must be completed within a period of three months and final report should be filed before the appropriate Court.

Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

nmm/dss

To

1.The Inspector of Police,
AWPS West, Coimbatore City.

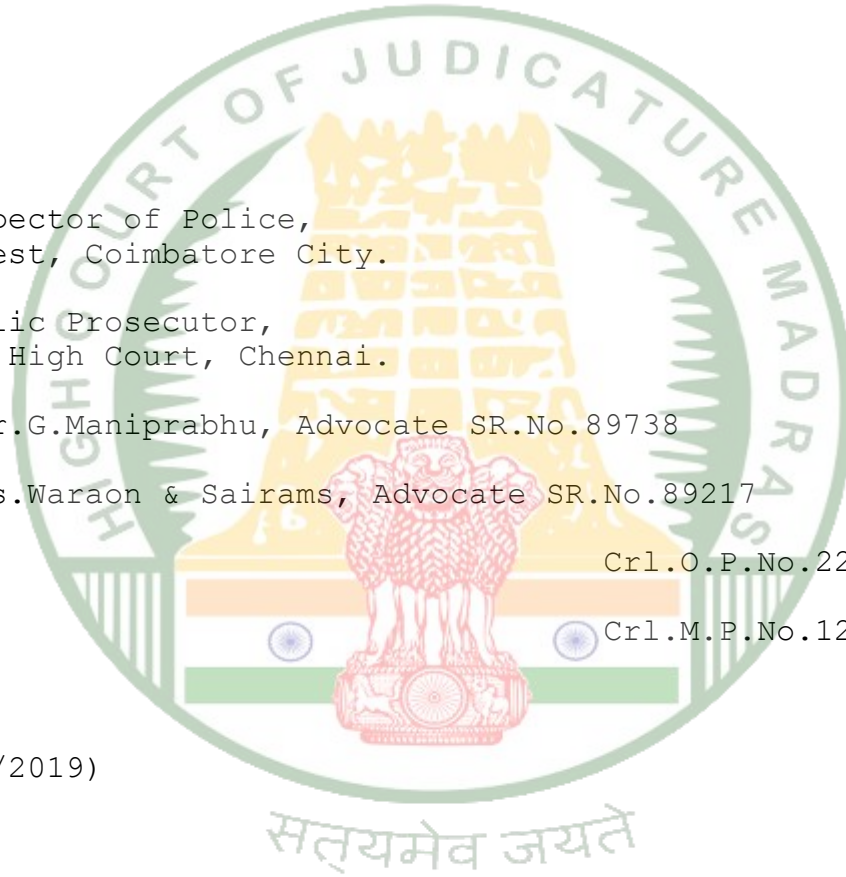
2.The Public Prosecutor,
Madras High Court, Chennai.

+2cc to Mr.G.Maniprabhu, Advocate SR.No.89738

+2cc to Ms.Waraon & Sairams, Advocate SR.No.89217

CrI.O.P.No.22920 of 2018
and
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AD(CO)
GMY(25/01/2019)



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