



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.OP[MD]No.16365 of 2014

and

M.P.(MD)No.1 of 2014

P.Pon Kathiravan

... Petitioner/Accsed No.4

Vs.

1.State represented by

The Inspector of Police,
All Women Police Station,
Palayamkottai,
Tirunelveli District.

...Respondent/Complainant

2.Sangeetha @ Ansi

... Respondents/Defacto Complainant

PRAYER: Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned Charge Sheet in C.C.174 of 2014, pending on the file of the Judicial Magistrate Court No.1, Tirunelveli and quash the same against the petitioner.

For Petitioner : Mr.S.Vanchinathan

For R1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.side)

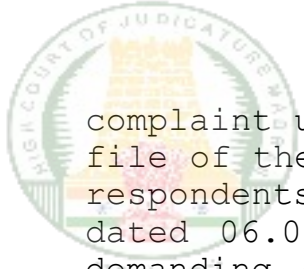
For R2 : Mr.C.D.Johnson

O R D E R

This petition is filed to quash the charge sheet in C.C.No.174 of 2014 on the file of the Judicial Magistrate No.1, Tirunelveli, having taken cognizance for the offence under Section 498-A IPC.

2.The case of the prosecution is that the second respondent was harassed for dowry by the first accused and his family members on several occasions. The petitioner is the distant relative of the first accused. The first accused and other accused persons demanded dowry from the defacto complainant's family and also harassed her. Hence, the charge sheet has been filed.

3.The learned counsel for the petitioner would submit that the petitioner is working as a Scientific Assistant in Bhaba Atomic Research Centre, Kalpakkum. He is a native of Tirunelveli District. Due to his employment, he is residing at Kalpakkam from the year 1982 and he never lived jointly with the first accused and his family members. The marriage was solemnized between the first accused and the defacto complainant on 28.05.2010. Except this, he is nothing to do with this crime as alleged by the prosecution. Further, he contended that the defacto complainant also filed a



complaint under the Domestic Violence Act in M.C.No.8 of 2013 on the file of the Judicial Magistrate No.1, Tirunelveli, in which, all the respondents were acquitted and the complaint dismissed by order dated 06.01.2015 for the reason that no allegation in respect of demanding dowry is proved against the petitioner and others. He would further submit that as per the report submitted by the District Social Welfare Officer, there was no dowry demanded by the petitioner and no cruelty or harassment by the petitioner. The entire allegations are proved only as against the accused 1 to 3. Therefore, he prays for quashing the criminal proceedings as against the petitioner.

4.Per contra, the learned counsel for the second respondent would submit that as per the charge, there are specific allegations as against the petitioner and all the grounds raised by the petitioner are gone into in a full fledged trial. Further, he would submit that the petitioner is a close relative of the first accused. There are clinching evidences to connect the petitioner to the charge framed by the prosecution. Therefore, he prays for dismissal of the quash petition.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6.The petitioner is arrayed as A4. He is the distant relative of the first accused. On perusal of the reports submitted by the District Social Welfare Officer that the accused 1 to 3 are only harassed and tortured the defacto complainant by demanding dowry. Insofar as the petitioner is concerned, no positive report filed by the officer concerned. It is also seen from the order passed in M.C.No.8 of 2013, dated 06.01.2015 on the file of the Judicial Magistrate No.1, Tirunelveli and the complaint filed by the defacto complainant/the second respondent under the Domestic Violence Act, it was concluded that as against the respondents 2 to 8, the complaint was dismissed and the entire allegations proved only as against the first accused. Further, the learned counsel for the petitioner has relied upon the judgment in Preeti Gupta and another Vs. State of Jharkhand and another reported in (2010) 7 SCC 667, wherein it has been held as follows:-

"32.It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33.The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small



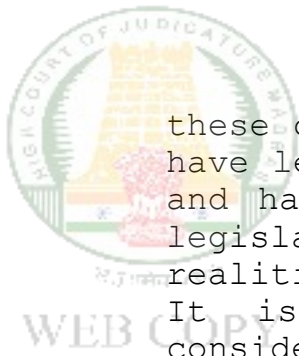
incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegation of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegation of the complainant are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness and the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.

37. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislature. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense suffering for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of



these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.

38. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for law and Justice to take appropriate steps in the large interest of the society.

39. When the facts and circumstances of the case are considered in the background of legal principles set out in the proceeding paragraphsm, then it would be unfair to compel the appellants to undergo the rigmarole of a criminal trial. In the interest of justice, we deem it appropriate to quash the complaint against the appellant. As a result, the impugned judgment of the High Court is set aside. Consequently, this appeal is allowed."

7. The above judgment cited by the petitioner is squarely applies to the present case. Considering the facts and circumstances of the case and considering the background of legal principles set out in the above judgment, it would be unfair to compel the petitioner to undergo the ordeal trial and to met out the ends of justice, this Court deems it fit to quash the criminal proceedings as against the petitioner.

8. In the result, this criminal original petition is allowed and C.C.No.174 of 2014 on the file of the Judicial Magistrate No.1, Tirunelveli is hereby quashed as against the petitioner alone. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate Court No.1, Tirunelveli.

2. The Inspector of Police,
All Women Police Station,
Palayankottai,
Tirunelveli District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

- 1 CC TO Mr.S.VANCHINATHAN , ADVOCATE IN SR No.91270.
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