



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved On :02.02.2018

Order Pronounced On :21.03.2018

WEB COPY

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THE HONOURABLE MR.JUSTICE **P.RAJAMANICKAM**

Crl.O.P.(MD) No.13215 of 2017

and

Crl.M.P.(MD) Nos.8941 & 8942 of 2017

1.Ramesh Babu
2.Vethavalli @ Pallinvethavalli
3.Natarajan
4.Brindha @ Brindha Alex Hema
5.Ramaprabha
6.Sathishbaphu ...Petitioners/Accused Nos.1 to 6

-Vs-

State represented by

1.The Inspector of Police,
All Women Police Station,
Manamadurai,
Sivagangai District. ...Respondent-1/ Complainant
(Crime No.4 of 2015)

2.Vijayalakshmi ...Respondent-2/defacto complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records of the charge sheet laid in C.C.No.160 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate Court, Manamadurai and quash the same as illegal.

For Petitioners : Mr.R.Karunanidhi

For 1st Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

For 2nd Respondent : Mr.R.Narayana

ORDER

This Criminal Original Petition has been filed by the
<https://hservices.ecourts.gov.in/hcservices/petitioners/accused> Nos.1 to 6, to quash the charge sheet, in
C.C.No.160 of 2016 on the file of the learned Additional District



Munsif cum Judicial Magistrate Court, Manamadurai.

2.The brief facts of the case are as follows:

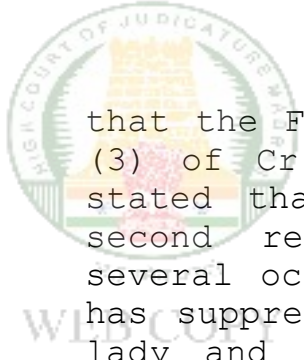
The second respondent herein/defacto complainant was married to the first petitioner herein on 08.09.2013. At the time of marriage, the parents of the defacto complainant gave 25 sovereigns of gold and silver articles worth about Rs.2 lakhs as dowry to the petitioners' family. Subsequently, the second respondent became pregnant and during pregnancy, she was subjected to harassment by demanding more dowry by the petitioners herein and also assaulted her. Further, the first petitioner suppressed the fact that already, he got married one lady and through her one female child was born. Hence, the second respondent has lodged a complaint before the first respondent and based on the said complaint, the first respondent has registered a case in Crime No.4 of 2015 for the offences punishable under Sections 417, 420, 498(A) and 506(ii) of IPC and subsequently, altered into under Sections 498(A), 495, 506(ii) and 406 of IPC and under Section 4 of Tamil Nadu Prohibition of Women Harassment Act. After investigation, the first respondent has filed a charge sheet under Sections 498(A), 495, 506(ii) and 406 of IPC and under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, against the petitioners herein. Based on the said charge sheet, a case was taken on file in C.C.No.160 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate Court, Manamadurai. The accused No.1 to 6 have filed a present petition to quash the said charge sheet.

3.Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

4.The learned counsel appearing for the petitioners has submitted that the F.I.R and the charge sheet did not contain any specific date, on which, the second respondent was subjected to cruelty. He further contended that at the time of arguments in the anticipatory bail application, which was filed by the petitioners herein in Crl.OP(MD)No.3294 of 2015, the second respondent herein has admitted that she has received all the gold jewels and other articles. He further submitted that already, the first petitioner herein has filed a petition in HMOP.No.2 of 2015, on the file of the learned Principal Sub Court, Dindigul for restitution of conjugal rights and the matter was settled by way of Lok Adalat on 11.04.2015 and that being so, the question of harassing the second respondent by the petitioners does not arise. He further submitted that in respect of the offence under Section 495 of IPC, there is a bar under Section 198 of Cr.P.C for taking the cognizance, on the basis of the police report and therefore, he

<https://hccasescourts.gov.in/cases/> the charge sheet.

5.The learned Government Advocate (Crl.side) has submitted



that the F.I.R and also the statements recorded under Section 161 (3) of Cr.P.C show that the prosecution witnesses have clearly stated that the petitioners herein have caused cruelty to the second respondent/defacto complainant by demanding dowry on several occasions. He further submitted that the first petitioner has suppressed the fact that he already got married with another lady and a female child was born through her and thereby, he cheated the second respondent and hence, the charge sheet has been filed under proper penal provisions of law. He further submitted that this Court cannot give any finding with regard to the facts and the same can be decided only the trial court, after taking evidence and hence, he strongly opposed this petition.

6.The learned counsel appearing for the second respondent has contended that in the bail application filed by the petitioners herein, the second respondent was not impleaded as a party and hence, she did not participate in the bail proceedings. Therefore, the contention of the learned counsel for the petitioners that the second respondent has admitted before the court that she has taken away her jewellery is not correct. He further contended that the F.I.R as well as the statements recorded under Section 161(3) Cr.P.C would *prima facie* disclose that the petitioners herein have committed offences under the aforesaid Sections.

7.In the typed set, the petitioners have produced a copy of the petition filed by the first petitioner herein in HMOP.No.2 of 2015 on the file of the learned Principal Sub Court, Dindigul and also filed a copy of the settlement memo, which was recorded before the Lok Adalat on 11.04.2015. In the said settlement memo, it is stated as follows:

"We have arrived at settlement terms willingly before the Lok Adalat held on 11.04.2015 at Dindigul. No coercion or force is applied to arrive at settlement. This case may be disposed of, as settled accordingly".

8.In the award, it is stated that the matter is amicably settled before the Lok Adalat on 11.04.2015 and award is passed in terms of the above settlement. But the terms of settlement is not enclosed with the said award. Therefore, this Court cannot express any view as to whether the parties have settled their issues or not. A perusal of the F.I.R and the statements recorded under Section 161 of Cr.P.C would *prima facie* show that the offences under Section 498(A), 495, 506(ii) and 406 of IPC and under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, are made out. The offences under Sections 498A, 506(ii), 406 of IPC and 4 of Tamil Nadu Prohibition of Women Harassment Act are cognizable and as such, the police is entitled to investigate the same and file charge sheet. In so far as the offence under Section 495 IPC is concerned, it is open to the petitioners to raise objections before the trial court with regard to the bar



under Section 198 of Cr.P.C. This Court, while dealing with the petition under Section 482 of Cr.P.C cannot decide the question with regard to the facts. The said question is also left open to the trial court to decide after recording evidence. Therefore, this Petition is bereft of merits and the same is liable to be dismissed.

9.In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed. Considering the fact that the petitioners 2 to 6 are in-laws and they are residing at far away places, their personal appearance before the trial Court is dispensed with until and unless specifically ordered by the trial Court for their appearance.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Munsif cum Judicial Magistrate,
Manamadurai
2. The Inspector of Police,
All Women Police Station,
Manamadurai,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.R.Karunanidhi , Advocate in SR No. 56772

das/vs

AE/SV MMS/SAR3/16.04.2018/4P/5C

Cr1.O.P. (MD) No.13215 of 2017
and

Cr1.M.P. (MD) Nos.8941 & 8942 of 2017
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