



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.11.2018
CORAM:

THE HONOURABLE Mr. JUSTICE M. NIRMAL KUMAR

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Crl.O.P. (MD) No.3763 of 2016
and
Crl.M.P (MD) Nos.1896 of 2016
Crl.M.P (MD) Nos.1430 of 2018
[Orders Reserved on 22.11.2018]

1.J.Saravanan
2.A.Jeyaram
3.J.Thanga Baby Vijayal
4.Syamala
5.Premala
6.Sharmila
7.Rathinaraj

... Petitioners / Accused 1 to 7

Vs.

1.The Inspector of Police,
All Women Police Station,
Alangulam,
Tirunelveli District
(Crime No.5 of 2015)

2.R.Lakshmi ... 2nd Respondent / Defacto Complainant

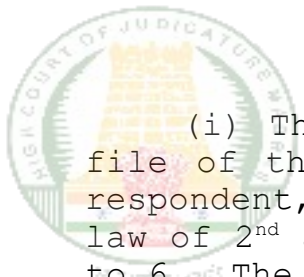
PRAYER: Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the proceedings in Crime No.5 of 2015, on the file of the 1st Respondent Police Station, quash the same as it has no prima facie case as against the petitioners.

For Petitioners	: Mr.Ananth C.Rajesh
For Respondent-1	: Mr.K.Suyambulinga Bharathi Govt.Advocate (crl.side)
For Respondent-2	: Mr.J.Ashok

O R D E R

The Criminal Original Petition has been filed praying to quash the proceedings in Crime No.5 of 2015, on the file of the 1st Respondent Police.

2. The short facts for disposal of the Criminal Original Petition is as follows:-
<https://hcservices.ecourts.gov.in/hcservices/>



(i) The petitioners are accused in Crime No.5 of 2015, on the file of the 1st Respondent Police, on a complaint given by the 2nd respondent, who is estranged wife of first petitioner; daughter-in-law of 2nd and 3rd petitioners and sister-in-law of the petitioners 4 to 6. The 7th petitioner is the husband of 5th petitioner.

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(ii) The first petitioner and the 2nd respondent had an arranged marriage on 15.04.2013. At that time of marriage, a sum of Rs.2,00,000/- was given as dowry, besides 100 gms., of gold ornaments and 16 gms of gold ornaments to bridegroom. Apart from that, household articles were given as 'Sridhana'. The petitioners' family demanded more dowry that instead of 'Pongal Seervaraisai', they should be given another one lakh. The first petitioner had abused her by using filthy languages and she was ill-treated. The other petitioners had threatened the 2nd respondent and her family members with dire consequences. Further, they were making false allegations that the 2nd respondent had not attained puberty and hence, not suitable for matrimonial relationship. The 2nd respondent was subjected to medical check-up to prove their allegation as false. The petitioner refused to accept the medical findings and their demand for more dowry and preliminary enquiry was conducted, as per the dictum in Lalithakumari's case and thereafter, the case came to be registered in Crime No.5 of 2015, for the offenses under Sections 498(A), 294(b), 406 and 506(ii) of IPC.

(iii) The first petitioner had filed H.M.O.P..No.91 of 2014, seeking divorce, which is pending before the learned Principal Sub Judge, Tenkasi. In the meanwhile, the petitioners had filed the above Criminal Original Petition and this Court has granted an order of interim stay on 03.03.2016. In view of interim stay granted by this Court, the Crime No. 5 of 2015 is kept in abeyance and no investigation has been carried on thereof.

3.Mr.Ananth C.Rajesh, the learned counsel appearing for the petitioner would submit that the petitioners 4 to 6 are sisters-in-law, who were married much before the marriage of the first petitioner with the defacto complainant / 2nd respondent and the 7th petitioner is the husband of 5th petitioner. It is an admitted case that they are all living separately. The petitioners affirmed that the 2nd respondent is not attained puberty and for the same, a Legal Notice, dated 14.03.2014 was issued calling her for medical check-up. Despite receipt of Legal Notice, the 2nd respondent had not responded to the same. Further, the first petitioner had filed a divorce petition in H.M.O.P..No.91 of 2014 and is pending before the learned Principal Sub Judge, Tenkasi. In the said petition, the 2nd respondent had filed a counter on 10.02.2014. Thereafter, an afterthought, to wreck vengeance, the complaint was lodged by the 2nd respondent and FIR came to be registered on 10.03.2015. Further, the petitioner assailed that the above case is in abuse of process of law and no preliminary enquiry was conducted by the District Social Welfare Officer before registration of the FIR. The 2nd respondent had suppressed the fact that she had not attained puberty



and unfit for matrimonial life. A matrimonial case has been given a criminal colour for the purpose of causing harassment and wreck vengeance.

4. Mr.J.Ashok, the learned counsel appearing for the 2nd respondent / defacto complainant contended that there has been consistent demand of dowry and harassment caused by the petitioners. The 2nd respondent herself submitted for medical check-up for the false allegation made by the petitioners, which caused harassment to the 2nd respondent. All the dowry articles are retained by them and when there is disputed question of fact, the same need to be addressed and resolved only during trial and the quash petition is not answer to the same.

5. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the 1st respondent, on instructions, would submit that sofar five witnesses were examined and their statements were recorded wherein dowry demand and harassment caused by the petitioners have been spoken to by the witnesses. In the meanwhile, due to stay of FIR granted by this Court, the investigation could not be carried out and the entire proceedings have been stalled.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. Considering the rival submissions and on perusal of the materials this Court is of the view that to quash the proceedings in Crime No.5 of 2015, on the file of the 1st respondent Police are not sustainable. In view of the same, this Criminal Original Petition is dismissed. However, taking into account the pendency of the proceedings from the year 2015, the first respondent / Investigating Officer is directed to give priority to this case and conduct the investigation and file the final report as expeditiously as possible. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1.The Inspector of Police,
All Women Police Station,
Alangulam, Tirunelveli District

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Addl. Public Prosecutor,
Madurai Bench of Madras High Court,



Madurai.
+1cc to Mr.Ananth Advocate in SR.No.97522

Pre-Delivery Order made in
Crl.O.P. (MD)No.3763 of 2016
28.11.2018

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