



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.11494 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

1.Suresh
2.Meenavathi
3.Alagarsamy
4.Balakrishnan

... Petitioners/Accused 1 to 4

Vs.

1.The State represented
by the Inspector of Police,
All Women Police Station,
Guziliyamparai,
Dindigul District.

... 1st Respondent/Complainant

2.Senthamarai Selvi ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the charge sheet in C.C.No.171 of 2009 on the file of the learned Judicial Magistrate, Dindigul and quash the same as illegal.

For Petitioners	: Mr.S.Chellapandian
For R1	: Mr.K.Suyambulinga Bharathi
	Government Advocate (Crl.Side)
For R2	: No appearance

O R D E R

The petitioners herein are Accused Nos.1 to 4 in C.C.No.171 of 2009, pending on the file of the Judicial Magistrate Court No.II, Dindigul.

2.The second respondent being the wife of the first petitioner, on 27.04.2008 lodged a complaint before the first respondent police, in which, he made an allegation as at the time of marriage with the first petitioner, on 30.06.1999, the parents of the second respondent gave 55 soverigns of gold jewels and Rs.75,000/- towards marriage expenses to the first petitioner. Thereafter, the first petitioner and the second respondent were residing in a separate house near to the house of the second petitioner, who is the sister of the first petitioner. The first petitioner used to come to the house of the second respondent once in 15 days and at



that time, the second petitioner, who is being the sister of the first petitioner, frequently made a false allegation against the second respondent and thereby, the first petitioner abused the second respondent/de-facto complainant and also pledged the entire gold jewels, which were given at the time of marriage. Finally, on 30.07.2017, he attended to kill the second respondent/de-facto complainant. So, on 16.08.2017, she went to the parents house and lodged a complaint before the Guziliyamparai Police Station and in consequence of lodging the petition before the Guziliyamparai Police Station, the first petitioner appeared before the said police station and gave an undertaking to return the gold jewels within a period of four months. But, the first petitioner has not complied with the said undertaking and when the same was questioned by the second respondent/ de-facto complainant, the petitioners/ accused abused her and thereby, committed this offence. After registering the case, the first respondent police started investigation and filed charge sheet against the petitioners, for the offences punishable under Sections 498(A), 406 and 294(b) IPC.

3.As of now, the case was pending with the Judicial Magistrate No.II, Dindigul, in C.C.No.171 of 2009. In this occasion, the petitioners herein filed this application for the relief stated supra.

4.The first and foremost contention raised by the learned counsel appearing for the petitioners is that after filing this petition, the de-facto complainant lodged 2 complaints before the police officers and the same were closed without any enquiry and for the very same cause of action the present case was registered which is nothing but abuse of process of law. Now, the learned counsel appearing for the petitioners himself admitted that based on the earlier complaints given by the de-facto complainant, no case has been registered against the petitioners. More over, on the side of the petitioners, the papers relating to the enquiry are all submitted to show their bonafide. However, in general with regard to the matrimonial offence committed in the matrimonial home, only the evidences given by the victim and other witnesses have to be looked into, for considering the charges framed against the petitioners. In this case, as per the submissions made by the learned Government Advocate (Criminal Side) even the charges were not framed, due to the reason that the first petitioner herein regularly has not appeared before the Judicial Magistrate Court No.II, Dindigul thereby, NBW was issued against him and the same is pending.

5.Accordingly, in the Trial Court, the petitioners are not co-operating with the trial proceedings. Furthermore, this Court is of the view that the disputes, which were arose between the second respondent/ de-facto complainant and the petitioners, shall be settled by way of examining by the witnesses during the course of trial in the Trial Court.



6. On the other hand, the learned counsel appearing for the petitioners did not mention anything about the abuse of process of Court. Therefore, this Court is inclined to dismiss the petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.2,
Dindigul.

2. The Inspector of Police,
All Women Police Station,
Guziliyamparai,
Dindigul District.

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

+1cc to M/S.S.Chellapandian, Advocate SR.No. 51463

Cr1.O.P. (MD) No.11494 of 2013
26.02.2018

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JM/SV MMS/SAR 1/23.03.2018/3P/5C