

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 04.04.2018****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Cr1. OP (MD)No.15744 of 2013****and****MP(MD)No.1 of 2013****WEB COPY**

- 1.Meeyamaal
- 2.Jesima
- 3.Peerappa
- 4.Ameena Beevi
- 5.Mumtaj
- 6.Sahulhameed
- 7.Abdul

... Petitioners/Accused A4 to A10

Vs.

1. The State of Tamil Nadu rep.by
the Inspector of Police,
Palayamkottai All Women Police Station,
Incharge, All Women Police Station,
Tirunelveli Town,
Tirunelveli District. ... Respondent/Complainant

2. Powsiya Begam ... Respondent/Defacto Complainant

Prayer : This Criminal Original Petition is filed Under Section 482 of Criminal Procedure Code to call for the records relating to the case in C.C No.122 of 2013 pending on the file of the learned Judicial Magistrate No.V, Tirunelveli and quash the same.

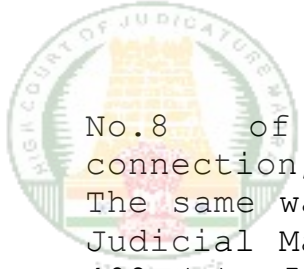
For Petitioners : Mr.N.Dilipkumar

For Respondents : Mr.Prabhu Ramachandran for R1

No appearance for R2

ORDER

The second respondent got married to one Mohaideen Abdul Kadar on 21.06.2006. No children were born of the said wedlock. Therefore, according to the husband of the second respondent herein, he contracted the second marriage with the consent of the second respondent. But unfortunately, the second wife of the said Mohaideen Abdul Kadar has passed away while delivering a child. The second respondent herein lodged a complaint with the All Women Police Station, Tirunelveli on 11.07.2012. The said complaint was received by the police and CSR No.126 of 2012 was issued. The copy of the said petition has been enclosed in the typed set of papers. Thereafter, the second respondent lodged one more complaint on 07.08.2012 before the Superintendent of Police, Tirunelveli. The said complaint was transferred to Thenkasi Police Station. Thereafter, it was again forwarded to Palayamkottai Police Station to register a criminal case in Crime



No.8 of 2012 against as many as 10 accused. In this connection, enquiry was conducted and final report was also filed. The same was taken on file in CC No.122 of 2013 before the learned Judicial Magistrate No.V, Tirunelveli for offences under Sections 498(A), 506(i) IPC and Section 4 of Dowry Prohibition Act. In order to quash the said proceedings, the petitioners have moved this Court by filing this petition.

2.Heard the learned counsel on either side.

3.Even though the defacto complainant was shown as second respondent in this O.P and notice was also served and her name has also been printed in the cause list, she has not chosen to appear in person or through counsel. At the very outset, it has to be noted that the husband and parents in law of the second respondent/defacto complainant are not before this Court seeking the relief of quashing the impugned proceedings. The husband of the defacto complainant has been named as the first accused. The mother in law has been named as second accused and father in law has been named as third accused. The first petitioner herein is the sister of the first accused/husband. The second petitioner herein is aunt of the husband. The third petitioner in this case is the maternal uncle of the first accused/husband. The fourth petitioner is the maternal grand mother of the first accused/husband. The fifth petitioner is the wife of the sixth accused. The sixth petitioner is a own brother of the defacto complainant. He happens to be the husband of the second respondent sister in law. The second respondent has chosen to wreak vengeance by arraying him as an accused even though he happens to be her own blood brother. The seventh petitioner herein is the husband of the second petitioner herein.

4.As rightly pointed out by the learned counsel for the petitioners, the impugned prosecution is founded on the second complaint given by the second respondent. Therefore, if the first complaint is taken into account, the impugned prosecution can be said to be an abuse of legal process. As already pointed out, the second respondent and the first accused got married in the year 2006. The first accused has also filed O.S.No.475 of 2012 before the learned Sub Judge, Tirunelveli seeking restitution of conjugal rights.

5.Of course, this Court cannot take note of the said suit proceedings as they are subsequent in point of time and the plaint itself appears to have been filed only on 13.08.2012. However, a mere look at the petition dated 11.07.2012 lodged by the second respondent herein before the AWPS, Tirunelveli would show that her grievance was only against her husband and her parents in law. <https://hcservices.ecourts.gov.in/hcservices/> from the records that compromise talks had taken place between the parties and the second respondent herein was



also duly handed over all her sridhana articles and jewellery that was on 17.07.2012. The present complaint was lodged on 07.08.2012. The occurrence in question is said to have taken place on 14.07.2012.

6. Though this Court is only exercising the jurisdiction under Section 482 of Cr.PC, this Court can easily come to the conclusion that the second respondent already lodged a complaint on 11.07.2012 and also accepted the articles as a part of the compromise on 17.07.2012. It is not possible to believe that on 14.07.2017 the occurrence in question could have happened. In any event, the dispute of the second respondent can only be with her husband and the parents in law. This Court also can easily come to the conclusion that the petitioners herein have been roped in only for the purpose of implicating the other relatives of her husband. The second respondent did not even leave her own blood brother. This was because, he got married to her husband's sister.

7. The Hon'ble Supreme Court in the decision reported in **AIR 1992 SC 604 (State of Haryana vs. Bhajan Lal)** held that if the High Court comes to the conclusion that the criminal case has been instituted with a intention to wreak vengeance, the Court would be justified in quashing the proceedings. This Court gone through the entire materials on record. It holds that the impugned proceedings are intended to wreak vengeance on the petitioners. It is made absolutely clear that the husband and the parents in law will have to face the trial and that it will not be open to them to take advantage of the observations made in these proceedings for the purpose of quashing the C.C No.122 of 2013 on the file of the learned Judicial Magistrate No.V, Tirunelveli. The impugned prosecution stands quashed insofar as the petitioners are concerned.

8. With these observations, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

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



2. The Judicial Magistrate No.V,
Tirunelveli.

+1cc to Mr.N.Dilipkumar, Advocate Sr.No.59797

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VB/KKR/SAR3/05.07.2018/4P/4C

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