



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.11.2018

CORAM:

THE HONOURABLE Mr. JUSTICE M. NIRMAL KUMAR

Crl.O.P. (MD) No. 5604 of 2011

and

Crl.O.P. (MD) No. 2473 of 2014

and

M.P (MD) Nos. 1 & 2 of 2011

M.P (MD) No. 2 of 2014

[Orders Reserved on 20.11.2018]

1.V.Seethalakshmi
2.V.Thamilarasan
3.Vigneswaran ... Petitioners in Crl.OP.5604/2011
4.Selvam ... Petitioner in Crl.OP.2473/2014

Vs.

1. The Sub Inspector of Police,
All Women Police Station,
In Cr.No.43 of 2010,
Dindigul,
Dindigul District. ... 1st Respondent / Complainant
in both Petitions

2.Jothimani ... 2nd Respondent / Defacto Complainant
in Crl.O.Ps.5604 of 2011 and
Crl.O.Ps.2473 of 2011

PRAYER IN CRL.OPs.5604/2011 & CRL.OPs.2473/2014: Petitions are filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to the C.C.No.602 of 2010 on the file of the Learned Judicial Magistrate No.II, Dindigul, Dindigul District and quash the same.

For Petitioners : Mr.S.Muthalraj
[In both Crl.O.Ps.5604/2011
& in Crl.OP.2473/2014]

For Respondent-1 : Mr.K.Suyambulinga Bharathi
(In both Petitions) Govt.Advocate (crl.side)

For Respondent-2 in : Mr.D.Malaichamy
[In both Crl.O.Ps.5604/2011
& in Crl.OP.2473/2014]

COMMON ORDER

The Petitions in CRL.OP(MD)No.5604 of 2011 & CRL.OP(MD)No.2473 of 2014 have been filed praying to quash the proceedings in C.C.No.602 of 2010, on the file of the Learned Judicial Magistrate No.II, Dindigul, Dindigul District.



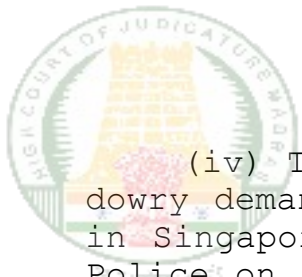
2. Since the above Criminal Original Petitions are in respect of same crime number and common facts are involved, they were taken together and a common order is being passed.

3. The short facts for disposal of these Criminal Original Petitions are:-

(i) The petitioners in CrI.O.P(MD)No.5604 of 2011 are mother-in-law, brother-in-law of the defacto complainant; in CrI.O.P(MD) No.2473 of 2011, the petitioner is another brother-in-law of the defacto complainant. The petitioners are A2, A4, A5 and A3 in Crime No.43 of 2010, for the offences under Sections 498(A), 323, 294(b) and 506(ii) of IPC., registered on the file of the respondent Police. The first respondent, on completion of investigation has filed a charge sheet before the learned Judicial Magistrate, Dindigul, which has been taken on file as C.C.No.602 of 2010. Totally there are five accused in this case and except A1, all the accused are before this Court.

(ii) The marriage between the first accused Parthiban / A1 / Husband and the defacto complainant / wife had taken place on 20.08.2006. During the marriage 40 sovereigns gold jewels and cash of Rs.3,50,000/- were received, as dowry. After 20 days of the marriage, the first accused had left to Singapore for his work. The defacto complainant was residing with the petitioners / A2 and A5. During that time, the petitioners / A2 & A5 said to have demanded more dowry. Six months thereafter the marriage, the defacto complainant had joined her husband / A1 in Singapore and she became pregnant. Due to pregnancy, she had come back to India for which the petitioners herein said to have questioned that who would bare the expenses for her fare to Singapore.

(iii) That being so, on 25.11.2017, the defacto complainant had given birth to a female baby. The petitioners failed to make any visit and enquire about the health of the defacto complainant and the baby. One month thereafter, A1 had come to the defacto complainant's house and had demanded the demands made by the petitioners herein and due to the intervention of the elders, the matter was settled. Thereafter, the defacto complainant with her infant baby was staying with the petitioners and during that time, the petitioners had not provided the defacto complainant and the infant baby with proper food. The defacto complainant had made a oral complaint to the police and based on which, the petitioners and the first accused were summoned to the Police Station. There a compromise was arrived at and thereafter, the first accused and the defacto complainant along with their kid had gone to Singapore. The 2nd accused / mother of the first accused had also accompanied with them to Singapore. It is further alleged that the petitioners / accused 3 to 5 had caused mental cruelty to the defacto complainant over the phone, when she was in Singapore. The demand of 10 sovereigns of gold jewels and a sum of Rs.10,00,000/- was made by the first accused and the mother of the first accused.



(iv) The defacto complainant was further threatened that if the dowry demand is not met, she has to file a mutual divorce petition in Singapore. The defacto complainant had called on the Singapore Police on 22.06.2010, who had come and picked up the first accused and was let off only on 23.06.2010. Taking offense of the same, the first accused had started neglecting the defacto complainant and failed to pay the electricity and water charges, where the defacto complainant was residing and for non-payment of the same, the power and water connection was cutoff. Thereafter, the defacto complainant without knowing what to do had pledged her jewels and come back to India along with her baby and thereafter, had given a complaint against which, the above case came to be registered.

4. Mr.S.Muthalraj, the learned counsel appearing for the petitioners would submit that as regards the accused 3 to 5 are concerned, who are all brother-in-laws of the defacto complainant. Admittely, the only allegation against them is that when the defacto complainant was in Singapore these petitioners said to have called over phone and abused her. Further, it is submitted that 20 days after the marriage, the defacto complainant and the first accused had gone to Singapore and they never lived together. The allegations made against them are all motivated one.

5. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the respondents, on instructions, would submit that the case is pending for a long time, for the non-appearance of the first accused, who is not co-operating with the trial and steps have been taken to secure him from Singapore. He further submitted that after conducting a thorough investigation, charge sheet has been filed against all the accused.

6. Mr.D.Malaichamy, the learned counsel appearing for the defacto complainant would submit that all the accused had taken part in causing cruelty and harassment to the defacto complainant and hence, they are all to be punished.

7. I have heard the learned counsels appearing on either side and perused the materials available on record.

8. On perusal of the charge sheet, L.Ws.1 to 9 have been cited as witnesses and documents have been annexed in the charge sheet. On a particular question with regard to the allegation that A3 to A5, who are brother-in-laws of the defacto complainant, called the defacto complainant over phone and caused harassment, when she was in Singapore, the counsel for the defacto complainant fairly conceded that there is no corroborative materials for the same.

9. Considering the rival submissions made on either side, this Court is of the considered view that these types of complaints are made on emotional presumptions and in the absence of any materials with worthwhile against the petitioners / Accused 3 to 5,



brothers of the first accused, and taking into consideration that the case is pending from the year 2010, this Court is inclined to quash the proceedings as against the petitioners / accused 3 to 5 alone.

10. In the result, the proceedings in C.C.No.602 of 2010, on the file of the Learned Judicial Magistrate No.II, Dindigul, Dindigul District, is quashed only in respect of the petitioners / Accused 3 to 5 alone. Insofar as A2 is concerned, this Court feels that there are some materials, which cannot be decided in quash petition, which has to be decided only during trial. In view of the same, the petition as against A2 / mother-in-law of the defacto complainant, is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. Judicial Magistrate No.II, Dindigul,
Dindigul District.
2. The Sub Inspector of Police,
All Women Police Station,
In Cr.No.43 of 2010,
Dindigul,
Dindigul District.
3. The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2cc to Mr.S.Muthalraj, Advocate Sr.No.97291&97290

MPK

KM/SV/SAR2/17.12.2018/4P/6C

Orders made in
Cr1.O.P. (MD)No.5604 of 2011
and
Cr1.O.P. (MD)No.2473 of 2014
28.11.2018