

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 07.02.2018****CORAM:****THE HONOURABLE MR. JUSTICE R.PONGIAPPAN****Cr1.O.P.(MD)No.3248 of 2013****and****M.P.(MD)No.1 of 2013**

1.S.Veerapandiyan
2.S.Sakunthala
3.Banupriya

... Petitioners/ Accused Nos.1 to 3

Vs.

1. The State represented by
The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
(Crime No.345 of 2012)

...1st Respondent / Complainant2.Eswari @ Vaitheswari ... 2nd Respondent / De-facto complainant

PRAYER: The Petition filed under Section 482 Cr.P.C. to call for the records in Crime No.345 of 2012 pending on the file of the respondent police and quash the same.

For Petitioners : Mr.D.Sasikumar

For R1 : Mr.A.Robinson

Government Advocate (Cr1. Side)

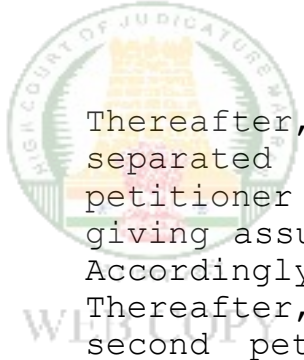
For R2 : No Appearance

ORDER

The petitioners have come forward with this petition, seeking the relief to quash the F.I.R.

2.The learned counsel appearing for the petitioners submitted that the petitioners are arrayed as accused Nos.1 to 3 in Crime No.345 of 2012 on the file of the Inspector of Police, Paramakudi Town Police Station. He also submitted that the first respondent police registered a case against the petitioners under Sections 147, 498(A), 420 and 406 r/w 149 I.P.C. and Section 4 of Women Harassment Act. The alleged F.I.R. was registered as per the direction given by the learned Judicial Magistrate, Paramakudi in Cr1.M.P.No.3988 of 2012.

<https://hcservices.ecourts.gov.in/hcservices/> said complaint, the second respondent / de facto complainant alleged that she married one Murugan, in the year 2000. Out of their wedlock, they were blessed with two children.



Thereafter, due to some misunderstanding between them, they separated in the year 2006. In these circumstances, the first petitioner requested the second respondent for marrying her, by giving assurance that he is ready to take care of her two children. Accordingly, the second respondent married the first petitioner. Thereafter, the first petitioner herein, on the instigation of the second petitioner, harassed the second respondent by demanding additional dowry. Further, it is alleged that the first petitioner, by pledging the jewels of the second respondent, availed loan for a sum of Rs.1,50,000/- in a Bank for the purpose of paying lease amount to a house. Thereafter, the first petitioner informed the second respondent as, a sum of Rs.18,000/- has to be paid towards interest to the said loan amount and that, the second respondent gave a sum of Rs.18,000/- to the first petitioner. However, on enquiry, the second respondent came to know that only a sum of Rs.8,000/- was the actual interest, payable to the said loan amount and due to which, a dispute arose between the second respondent and the first petitioner. Further, she alleged that after pledging her other jewels, the first petitioner and the second respondent arranged the marriage to the brother of the first petitioner namely, Sathishkumar along with one Banupriya and thereafter, the said Sathishkumar went to abroad. In the mean time, the first petitioner was having illegal contact with the said Banupriya, who is the third petitioner herein. When the same was questioned by the second respondent, the first petitioner assaulted her and drove her away from the matrimonial house, where the second respondent and her children were residing.

4.The learned counsel appearing for the petitioners submitted that due to the lodging of a complaint against the second respondent on 18.06.2012,in order to take vengeance, the second respondent herein had lodged the present complaint on 04.08.2012. Further, the learned counsel for the petitioners submitted that the first petitioner is not the husband of the second respondent and that, the entire allegation levelled by the second respondent is an imaginary one.

5.Now, considering the submissions made by the learned counsels appearing on either side, it is true that after lodging the complaint by the second petitioner herein, the second respondent has lodged the present complaint. According to the case of the prosecution, from the date of arranging marriage to the brother of the first petitioner, the second petitioner had abused the second respondent. All these facts are brought out only by way of adducing evidence. As of now, we cannot come to a conclusion that the case in Crime No.345 of 2012 as it is registered in order to take revenge against the petitioners herein.

6.The materials produced would disclose the fact that there is some truth in the statement of both parties namely, the first petitioner and second respondent. In the copy of the birth



certificate, issued in favour of a child namely, Nithya Priya, who is the daughter of the second respondent, the father's name was mentioned as Murugan and the name of the first petitioner is not found. Further, on going through ration card, accounts statement issued by P.C. India Limited and the pass book of second respondent issued by City Union Bank, it is seen that the first petitioner's name is shown as husband of the second respondent. So without eliciting the above facts by way of examining the witness, this Court cannot come to a conclusion that the second respondent is not the wife of the first petitioner. The allegation raised by the second respondent are all on the factual aspects.

7. In this regard, it is relevant to consider the decision of the Hon'ble Supreme Court in **Ajay Kumar Das Vs. State of Jharkhand and another** reported in **2011 (12) SCC 319**, wherein, the Court has held as follows:

'15. allegations will have to be dealt with by the court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge-sheet had already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant.'

8. According to the Judgment of Hon'ble Apex Court, a petition filed under Section 482 Cr.P.C., factual aspects cannot be decided and it can be decided only by way of conducting trial. Now, in this case, the charge sheet has not been filed by the first respondent police. Hence, this Court is compelled to come to the conclusion to dismiss the application after giving an appropriate direction to the first respondent. Accordingly, the first respondent is directed to file the final report within a period of three months from today.

9. With the above direction, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&S)

/True Copy/

Sub Assistant Registrar



To

1. The Judicial Magistrate, Paramakudi.
2. The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

smi/cp

MV:GT:SAR4:15/03/2018/4P/4C

Crl.O.P. (MD) No.3248 of 2013
and
M.P. (MD) No.1 of 2013

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