

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.954 of 2019

and

CrI.M.P.No.635 of 2019

- 1.Prabhu
- 2.Kalimuthu
- 3.Maheswari
- 4.Thiyagu

...Petitioners

-Vs-

1. The State of Tamil Nadu
Represented by its
The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.

2. P.Nandini
Crime No.29/18

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records FIR in Crime No.29 of 2018 pending on the file of All Women Police Station, Thudiyalur, Coimbatore District and quash the same.

For Petitioners : M/s.R.Veeramani

For Respondent-1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent-2 : No Appearance

ORDER

This Criminal Original Petition has been filed for quashing the FIR in Crime No.29 of 2018 pending on the file of the first respondent police, All Women Police Station, Thudiyalur, Coimbatore District.

2. The case of the prosecution, as could be seen from the FIR, is that on 18.5.2018 after coming to know that the complainant was proceeding to her native, the first petitioner,

his father and maternal aunties viz., Banu and Rajathi waylaid and taken her to the temple situated at Thirumoorthy Hills near Pollachi and forcibly performed marriage with the first petitioner without her consent and the same was registered at the office of the Sub Registrar, Pollachi on the same day. At that time, the petitioners stated that if the complainant disclose the marriage with her parents or her relatives, she would face dire consequences. Fearing the threat, the complainant had not informed the marriage to her parents and the petitioners have also threatened by saying that if she disclose the marriage, she will be killed. After that the complainant went her native place Ellanalli along with her parents and returned back to duty at Chennai. While so, on 03.11.2018, the petitioners took the complainant to their house at Chennai and on 09.11.2018, they conducted marriage reception forcibly without the consent of the complainant. On 09.11.2018, the petitioners have forcibly taken all her educational certificates and also threatened her not to disclose the same to her parents. While the complainant staying in the house of the petitioners, they took photos and videos while the complainant taking bath and dress change and also threatened her by saying that if she went to her parents house, they will host the same in the Internet and also beat her. From 09.11.2018 onwards, the petitioners are giving torture to the complainant physically and mentally. Due to the torture, on 03.12.2018, the complainant attempted to commit suicide and admitted in D.J. Hospital, Periyanaickenpalayam where the police enquired and sent the complainant along with the parents. The complainant lodged a complaint before the All Women Police Station, Thudiyalur against the petitioners and the police registered the case in Crime No.29 of 2018 under Sections 354C, 506(II) and 507 IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

4. In *Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & Ors*, reported in 2019 SCC OnLine SC 182 [C.A.No.255 of 2019, dated 12.02.2019], the Hon'ble Supreme Court observed as follows:

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the

accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

.....

9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

5. In the case on hand, there is specific allegations to attract the offences against the petitioners. Therefore, the FIR cannot be quashed on its birth.

6. In view of the decision of the Hon'ble Supreme Court, supra, this Court is not inclined to entertain this petition.

Accordingly, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. Further, the first respondent is directed to file a final report within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS III)

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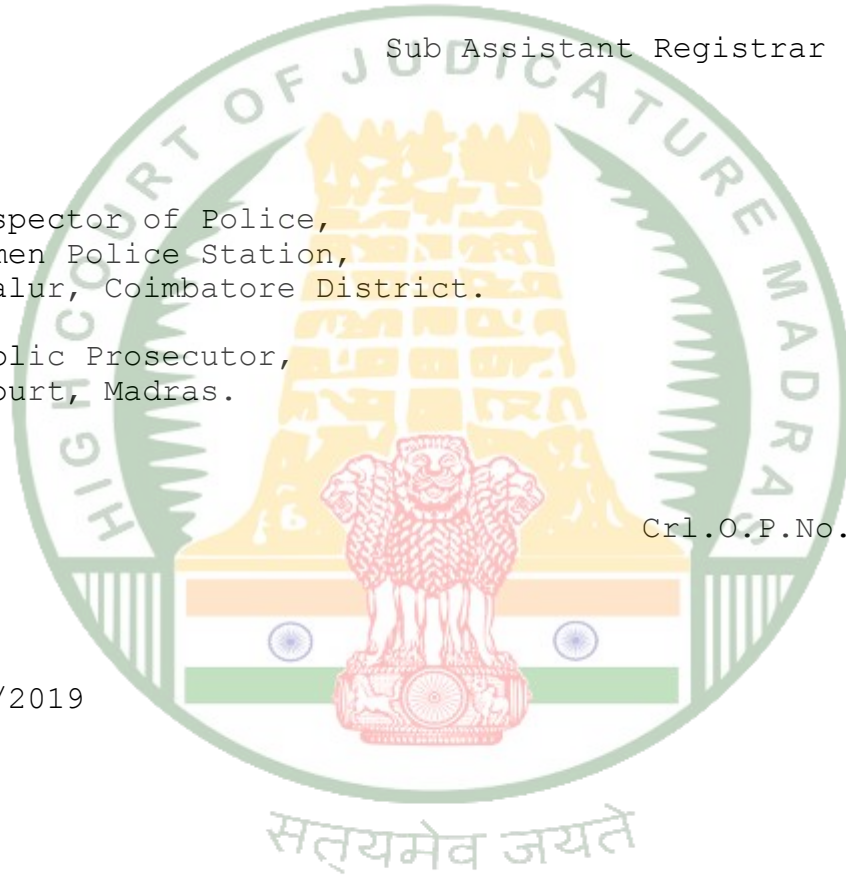
Sub Assistant Registrar

msm
To

1. The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.954 of 2019

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