

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.25014 of 2016
and CRL.M.P.No.12104 of 2016

1.E.Pandian

2.P.Susila ... Petitioners/2nd, 3rd Accused

Vs.

1. All Women Police Station,
Rep by the Inspector of Police,
Puducherry - 1.1st Respondent / Complainant

2. Sheeladevi2nd Respondent /
De facto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records in C.C.No.28 of 2016 in Crime No.1 of 2015, on the file of Chief Judicial Magistrate, Puducherry and quash the final report filed against the petitioners.

For Petitioners: Mr.D.Senthil Kumar

For Respondents: Mr.V.Balamurugane for R1
Additional Public Prosecutor (Puducherry)
R2 - No appearance

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.28 of 2016 in Crime No.1 of 2015, on the file of the learned Chief Judicial Magistrate, Puducherry.

2.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.1 of 2015 for the offences under Sections 420, 498(A) r/w. Sec. 34 IPC and 4 of Dowry Prohibition Act 1961, as against the petitioners and filed charge sheet in C.C.No.28 of 2016 before the Chief Judicial Magistrate, Puducherry. Hence, he prayed to quash the same.

3.The learned Additional Public Prosecutor, Puducherry would submit that there are specific allegations as against the petitioners to attract the offence under Sections 420, 498(A) r/w. Sec. 34 IPC and 4 of Dowry Prohibition Act 1961. Therefore, he prayed to dismiss this petition.

4.Though, the notice has been served and the second respondent name also printed in the cause list but no one appeared on behalf of the second respondent.

5.Heard, Mr.D.Senthil Kumar, learned counsel appearing for the petitioners, Mr.V.Balamurugane, learned Additional Public Prosecutor (Puducherry) appearing for the first respondent and there is no representation on the side of the second respondent and perused the materials available on record.

6.The learned counsel for the petitioners submit that there totally three accused, in which the petitioners arrayed as A2 and A3. They are none other than the father-in-law and the mother-in-law of the second respondent herein.

7.It is seen that the second respondent got married the son of the petitioners on 04.06.2009 at Manonmani Thirumana Mandabam at Kattupakkam, Near Puducherry. Thereafter, due to misunderstanding between the first accused and the second respondent on 01.05.2010, the second respondent left from the marital home and deserted the first accused. In fact, on 10.05.2010, the second respondent visited the house of the petitioners/A2 and A3 and taken back all the personal belongings and articles presented during marriage. In the meanwhile, the first accused filed a petition for restoration of conjugal rights before the Family Court at Puducherry in MOP.No.343 of 2010 and the same was dismissed for default. Therefore, the entire allegations are only as against the first accused, the petitioners/A2 and A3 are no way connected with the allegations as alleged by the second respondent herein. Even, as per the allegations made in the charge, there is no specific allegations as against the petitioners/A2 and A3 all the allegations are made bald.

8.It is also seen that the second respondent got married with another man and she is living happily. After a period of five years, the personal complaint has been lodged and the first respondent without any material to attract under Sections 420, 498(A) r/w. Sec. 34 IPC and 4 of Dowry Prohibition Act 1961 as against the petitioners/A2 and A3 mechanically filed a final report.

9.Considering the above facts and circumstances, the petitioners/A2 and A3 did not go for ordeal trial since there is

no possible of conviction as against the petitioners/A2 and A3 and as such the pendency of the criminal proceedings as against the petitioners is nothing but clear abuse of process of Court.

10. With the above observation and direction, the Criminal Original Petition stands allowed and C.C.No.28 of 2016 in Crime No.1 of 2015, on the file of the learned Chief Judicial Magistrate, Puducherry as against the petitioners/A2 and A3 is quashed. However, the trial Court is directed to complete the trial as against the first accused within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (J)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Chief Judicial Magistrate,
Puducherry.

2. The Inspector of Police,
All Women Police Station,
Puducherry - 1.

+1 cc to Public Prosecutor for Pondicherry, vide S.R.No.38515

CRL.O.P.No.25014 of 2016
and CRL.M.P.No.12104 of 2016

MV (CO)
SSM(12/06/2019)

सत्यमेव जयते

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