

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.920 of 2013

and

M.P.No.1 of 2013

1. Sadasivam
2. Natanasabapathy
3. Jeyalakshmi
4. Kannadasan
5. Jeyanthi Petitioners

Vs.

1. State by
The Inspector of Police,
W-22, All Women Police Station,
Ambattur.
2. Thenmozhi Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.108 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Ambattur, and quash the same.

For Petitioners: Mr.S.Y.Masood

For Respondents: Mr.R.Surya Prakash,
Govt. Advocate (CrI.Side) for R1
M/s.P.Sesubalan for R2

ORDER

This criminal original petition has been filed seeking to quash the proceedings in C.C.No.108 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Ambattur.

2 Based on the complaint lodged by the second respondent, the first respondent police has registered a case in Crime No.1 of 2008 against the petitioners herein for the offence punishable under Sections 498(A) 506(i) of IPC and Section 4 of the Dowry Prohibition Act and after investigation laid a charge sheet, which was taken on file in C.C.No.108 of 2008 and the same is pending before the learned District Munsif-cum-Judicial Magistrate, Ambattur. During pendency of the above calender case, all the accused have preferred this petition seeking to quash the same. The petitioners herein were arrayed as A1 to A5 in the above calender case.

3 The learned counsel appearing for the petitioners would submit that time and again this Court and the Hon'ble Supreme Court has reiterated that in-laws should not be harassed under Domestic Violence Act. In this case the first petitioner is husband of the second respondent and other petitioners are in-laws. According to the second respondent/wife, from the year 2001, there is dispute, but, she has not preferred any complaint and even in the year 2007 she preferred a complaint, but, no action was taken on the same either by police or by the second respondent to proceed her complaint. There is inordinate delay in lodging the present complaint, and in order to harass the first petitioner/husband, the second respondent/wife has impleaded all the family members of the first respondent. Therefore, the case in C.C.No.108 of 2008, on the file of the learned District Munsif-cum-Judicial Magistrate, Ambattur, has to be quashed.

4 The learned Government Advocate (Crl.Side) appearing for the first respondent police, would submit that due to threat, the second respondent has not lodged the complaint immediately and she has narrated entire events and threat in her complaint itself. There is no valid ground to quash the calender case and the petitioners must be prosecuted.

5 Heard the learned counsel on either side and perused the materials available on record.

6 It is seen that marriage between the first petitioner and second respondent was solemnized on 26.04.2001 and due to their wedlock, a female baby was born on 05.07.2002. On reading of the complaint lodged by the second respondent and charge sheet, prima facie, there is allegations against all the petitioners. Even though, it is contended by the learned counsel appearing for the petitioners that the second respondent has not preferred the complaint immediately and there is inordinate delay, but, the fact remains that no woman will lodge complaint against her husband at the very threshold of matrimonial life, at the best she will try to settle the matter amicably as much as possible, but when there is no possibility of settling the matter, then only she will prefer complaint. Further, cruelty in the matrimonial life is a continuing offence and therefore, the delay in preferring the complaint will not take away the offence under Domestic Violence Act committed by the petitioners.

7 This Court does not find any ground to quash the above calender case and there is no merit in this petition and hence the criminal original petition is dismissed. Consequently connected miscellaneous petition is closed. However, since the matter is pending from the year 2008, the learned District Munsif-cum-Judicial Magistrate, Ambattur, is directed to dispose of the case in C.C.No.108 of 2008 within a period of four months from the date of receipt of a copy of

this order. The petitioners are at liberty to raise all their defence before the Court below.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

Cgi

To

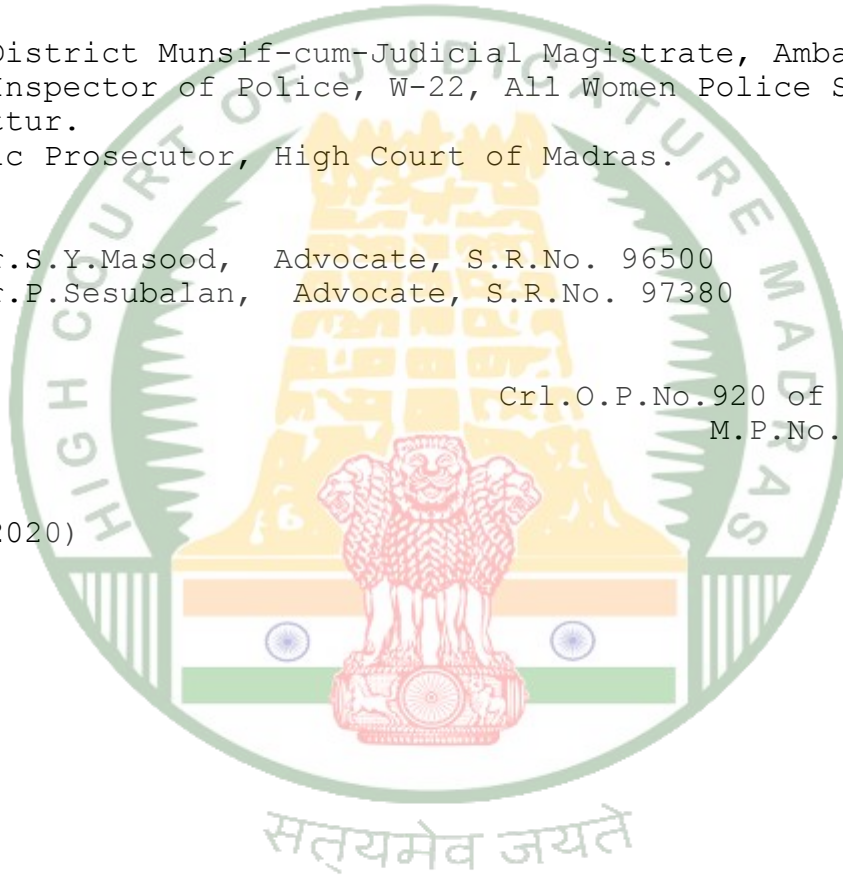
1. The District Munsif-cum-Judicial Magistrate, Ambattur.
2. The Inspector of Police, W-22, All Women Police Station, Ambattur.
3. Public Prosecutor, High Court of Madras.

+1cc to Mr.S.Y.Masood, Advocate, S.R.No. 96500

+1cc to Mr.P.Sesubalan, Advocate, S.R.No. 97380

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VG II(CO)
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