

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM:

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

Crl.O.P.No.7295 of 2019

and

Crl.M.P.Nos.4015 & 4016 of 2019

1.R.Ravikumar

... Petitioners

2.Shakila

Vs.

1.The State-represented by
The Inspector of Police,
All Women Police Station,
Sethiyathoppu,
Cuddalore District.
(Crime No.3 of 2018)

2.S.Priya

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to C.C.No.87 of 2018 on the file of the Hon'ble District Munsif cum Judicial Magistrate at Kattumannarkoil, Cuddalore District and quash the same.

For Petitioner : Mr.D.Muthuselvam

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.87 of 2018, on the file of the learned District Munsif cum Judicial Magistrate at Kattumannarkoil, Cuddalore District.

2. The petitioners are arrayed as accused in Crime No.3 of 2018 for the offences punishable under Sections 109, 494, 498 (A) and 506(i) of IPC on the basis of complaint given by the 2nd respondent herein.

3.The crux of the complaint is that the 2nd respondent/defacto complainant got married with 1st accused/Balasubramaniyan on 23.01.2013 and had a daughter out of their wedlock. It is alleged that the petitioners and 8 others

joined together and scolded the defacto complainant and subjected to cruelty by abetting her to the extent of committing suicide. A1/husband of the defacto complainant at the instigation of his family members/petitioners and accused persons tried to obtain money by pawning her educational certificates. Hence, she lodged a complaint against her husband and in-laws. The defacto complainant further alleged that the petitioners herein had arranged and performed marriage of her husband with one Malathi/A8.

4. The learned counsel for the petitioner submitted that the respondent police without proper investigation filed a charge sheet as against these petitioners in C.C.No.87 of 2018, on the file of the learned District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore District. He further submitted that there are sufficient materials to show that the petitioners did not commit any offence as alleged by the prosecution. Hence, he prays to quash the proceedings in C.C.No.87 of 2018.

5. It is relevant to extract the following observations made by the Hon'ble Supreme Court in the case of *Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.*, in Crl.A.No.255 of 2019 dated 12.02.2019, with regard to quashing of the criminal proceedings.

"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."

6. In the case on hand, the points raised by the petitioners are question of facts, which are to be raised only before the trial Court. Therefore, this Court does not find any merits to quash the proceedings in C.C.No.87 of 2018. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

7. However, considering the fact that the 1st petitioner is working in Chennai in a Public Department and the 2nd petitioner is his wife, their personal appearance before the trial Court in connection with C.C.No.87 of 2018 is dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The learned District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore District is directed to complete the trial within a period six months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar (J)

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Sub Assistant Registrar

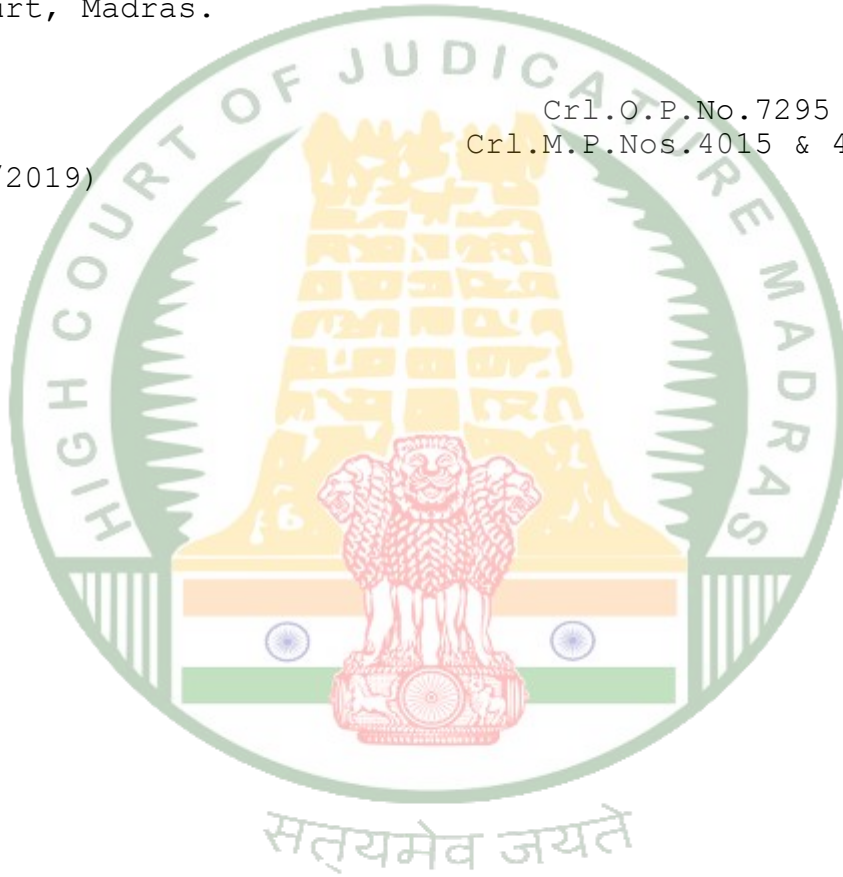
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To

- 1.The Inspector of Police,
All Women Police Station,
Sethiyathoppu,
Cuddalore District.
- 2.The District Munsif-Cum-Judicial Magistrate,
Kattumannarkoil, Cuddalore District.
- 3.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.7295 of 2019 and
Crl.M.P.Nos.4015 & 4016 of 2019

RRS (03/05/2019)



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