

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.4307 of 2014
and M.P.Nos.1 and 2 of 2014

1.Senthil Kumar
2.Sankaralingam
3.Bhooma Devi
4.Malai Palani
5.Vasanthi

... Petitioners

Vs.

1. The State represented by
The Inspector of Police,
All Women Police Station,
Karaikal

2. Sophia

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, pleaded to call for the records and quash the complaint in C.C.No.322 of 2013 on the file of the Court of the Judicial Magistrate II, Karaikal.

For Petitioners: Mr.K.Premkumar

For R1 : Mr.V.Balamurugan
Additional Public Prosecutor(Pondy)

ORDER

Heard the learned counsel for the petitioners. There is no representation for the second respondent despite notice.

2. The Criminal Original Petition is filed to quash the charge sheet pending on the file of the Judicial Magistrate No.II, Karaikal in C.C.No.322 of 2013.

3. Based on the complaint given by the second respondent herein, the first respondent police has registered a complaint in Crime No.3 of 2014 under Section 498(A) IPC and Section 4 of Dowry Prohibition Act r/w Section 34 IPC against the petitioners herein.

4. The first petitioner is the husband of the second respondent/defacto complainant, rest of the petitioners are the parents and siblings of the first petitioner. The contention raised in the petition is that the marriage between the petitioner and the second respondent was solemnized on 05.02.2012. The petitioner left India to Australia on 01.03.2012, the second respondent joined him at Australia on 27.05.2012. There was some misunderstanding between them. Since the first petitioner has noticed some undesirable messages in the cell phone of the second respondent, the first petitioner and the second respondent decided to sort out their differences at India, so returned to India on 18.08.2012. The first petitioner/husband has preferred a divorce petition on the ground of cruelty before the District Court, Karaikal in H.M.O.P.No.36 of 2012. Meanwhile, the second respondent has preferred a complaint on 11.02.2013, which is the subject matter of this quash petition alleging dowry harassment against the petitioners.

5. The sum and substance of the allegations found in the complaint as well as the divorce petition is that the second respondent even after marriage continued her friendship with one Dr.Sridhar and sending undesirable messages over cell phone. After collecting the call details when the first petitioner questioned her about her intimacy with Dr.Sridhar, the second respondent did not satisfactorily reply, so the first petitioner has preferred the divorce application on the ground of cruelty. Whereas, the second respondent has preferred the complaint dated 11.02.2013, alleging that the petitioners before marriage demanded dowry commensurating his status. After marriage, they continue to torture demanding dowry.

6. According to the complaint, at the time of marriage the petitioners demanded Rs.2 lakhs cash and 50 sovereign gold jewels. After marriage they started torturing her, since the family could not give the entire dowry demanded. In the complaint, the second respondent has stated that the first petitioner is pressurizing her to give consent for mutual divorce. Since she has not agreeable to that, she was subjected to physical and mental cruelty.

7. It is the contention of the first petitioner that just to counter blast the divorce petition filed by the first petitioner and to cover up her undesirable behavior for having contact of Dr.Sridhar despite warning and reprimand, she has come up with the frivolous complaint. It is now stated by the learned counsel for the petitioner that in the H.M.O.P.No.36 of 2012 filed for divorce by the first petitioner, decree of divorce granted by mutual consent on 28.07.2018.

8. The copy of the divorce decree has not been furnished before this Court. This Court is unable to confirm the same due to the absence of the second respondent who has not responded to the notice sent by the Court. Nevertheless, after perusing the records available before the Court and the statement made by the learned counsel for the petitioner, this Court finds that the petition for divorce alleging cruelty has been presented by the first petitioner on 05.11.2012. Only thereafter, the second respondent has chosen to give a complaint before the first respondent police. Both in the divorce petition as well as in the complaint, there is a reference about the spouse had some discussions regarding dissolving their marriage by consent. Since the proposal could not fructify, the first petitioner has approached the District Court, Karaikal for dissolution of marriage. On her part, the second respondent had initially filed application to reject the petition on the ground that it is prematurely filed before one year of the marriage. The said petition to reject the M.O.P was dismissed by the District Court on 24.01.2013. Thereafter, it appears that pending disposal of the present Criminal Original Petition, the first petitioner and the second respondent has decided to dissolve the marriage by mutual consent and obtain decree of divorce.

9. In the said circumstances, it will be a futile exercise to continue the prosecution when the defacto complainant had not showed any interest to contest this criminal original petition.

10. In the result, the proceedings in C.C.No.322 of 2013, on the file of the learned Judicial Magistrate-II, Karaikal is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Inspector of Police,
All Women Police Station,
Karaikal.

2. The Judicial Magistrate No.II, Karaikal.

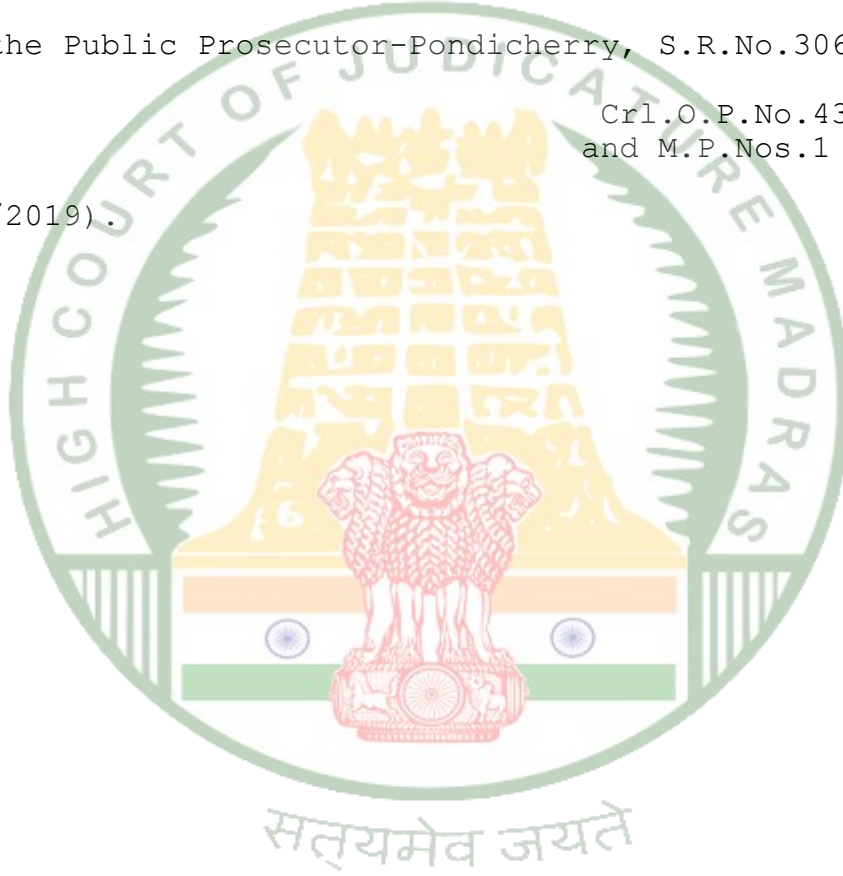
3. The Public Prosecutor
High Court of Madras.

+1 cc to Mr.K.Premkumar, Advocate, S.R.No.29666

+1 cc to the Public Prosecutor-Pondicherry, S.R.No.30693

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RR(CO)
SSM(08/05/2019).



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