

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI
Crl.O.P.Nos.23101 and 23892 of 2009

- 1.G. Mohammed Masood
- 2.Gaffar Sahib
- 3.Ragina
- 4.Amjad
- 5.Shagin
- 6.Saleem
- 7.Ishrath
- 8.Sheriff

... Petitioners in Crl.O.P.No.23101/2009

1. G. Mohammed Masood
2. Gaffar Sahib
3. Amjad
4. Saleem
5. Sheriff

... Petitioners in Crl.O.P.No.23892/2009

Vs.

S.K. Noushad Bi

... Respondent in both petitions

Prayer in Crl.O.P.No.23101 of 2009:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records and quash the complaint filed u/s 200 of Criminal Procedure Code in C.C.No.298 of 2008 on the file of the Court of Judicial Magistrate, Gudiyattam.

Prayer in 23892 of 2009: Petition filed under Section 482 of Cr.P.C to call for the records and quash the Application filed U/s 12 of Tamil Nadu Domestic Violence Act, 2005 in MC.No. 25 of 2008 on the file of the Court of Judicial Magistrate Gudiyattam.

For Petitioners : Mr. C.V.Kumar
For Respondent : Mr.A.B. Fathima Sulthana

COMMON ORDER

The facts of the case is that first petitioner/G. Mohammed Masood and the respondent got married on 28.07.2002 as per Muslim customs and practice. At the time of marriage 90 sovereigns of gold ornaments were given as sreedhana to the respondent wife, out of which 15 sovereign of gold ornaments were given to the first petitioner/husband. Apart from this Rs.15,000/- was given by way of cash and Rs.3,00,000/- worth utensils was also given to the respondent/wife as Sreedhana by her parents. After the marriage the husband/first petitioner went to Saudi Arabia for his employment and came back after 2 years and again went to Saudi Arabia during the year 2007. Out of the wed lock two male children were born during the year 2003 and 2005 and at present both the children were with the respondent/wife.

2. In the Marriage life, the respondent/wife was ill treated in her matrimonial home. Hence she filed a complaint U/s 200 of Cr.PC and also filed a petition U/s 12 of Protection of Women from Domestic

Violence Act, 2005. In the said complaint and petition apart from her husband/first petitioner, his brother, sisters and brother-in-laws were added as respondents. Hence the above Crl.O.P.s have been filed to discharge them from the above said complaint and petition.

3.The learned counsel for the petitioners submitted that there was matrimonial dispute between the first petitioner/husband and defacto complainant, however the petitioners 4 to 8 in Crl.O.P.No.23101 of 2009 are the in-laws of the defacto complainant and no allegation is made against them and they are arrayed as accused simply because they are related to the main accused. Hence forcing them to face trial is un-sustainable. Accordingly this Court may quash the complaint and petition in respect of the petitioners 4 to 8 in Crl.O.P.No.23101 of 2009 and petitioners 3 to 5 in Crl.O.P.No.23892 of 2009 because they are one and the same.

4. It is also seen from the records that apart from the above said complaint and petition the first petitioner/wife also filed M.P.No.24 of 2008 on the file of the learned Judicial Magistrate, Gudiyatham and the same was allowed with a direction to the first petitioner/husband to pay a sum of Rs.750/- per month as maintenance.

5. On perusal of the entire records reveal that no specific allegation is made against the petitioners 4 to 8 in Crl.O.P.No.23101 of 2009 and petitioners 3 to 5 in Crl.O.P.No.23892 of 2009 and simply they are arrayed as accused. Under such circumstances, forcing them to face the trial is un-reasonable. Hence this Court has no hesitation to quash the complaint in respect of Petitioners 4 to 8 in Crl.O.P.No.23101 of 2009. Consequently the complaint against the petitioners 3 to 5 in Crl.O.P.23892 of 2009 are also quashed as they are one and the same. Therefore, the Trial Court may proceed the trial in respect of other petitioners and complete it as expeditiously as possible.

6. In the result these Criminal Original Petitions are partly allowed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

12.12.2019

To

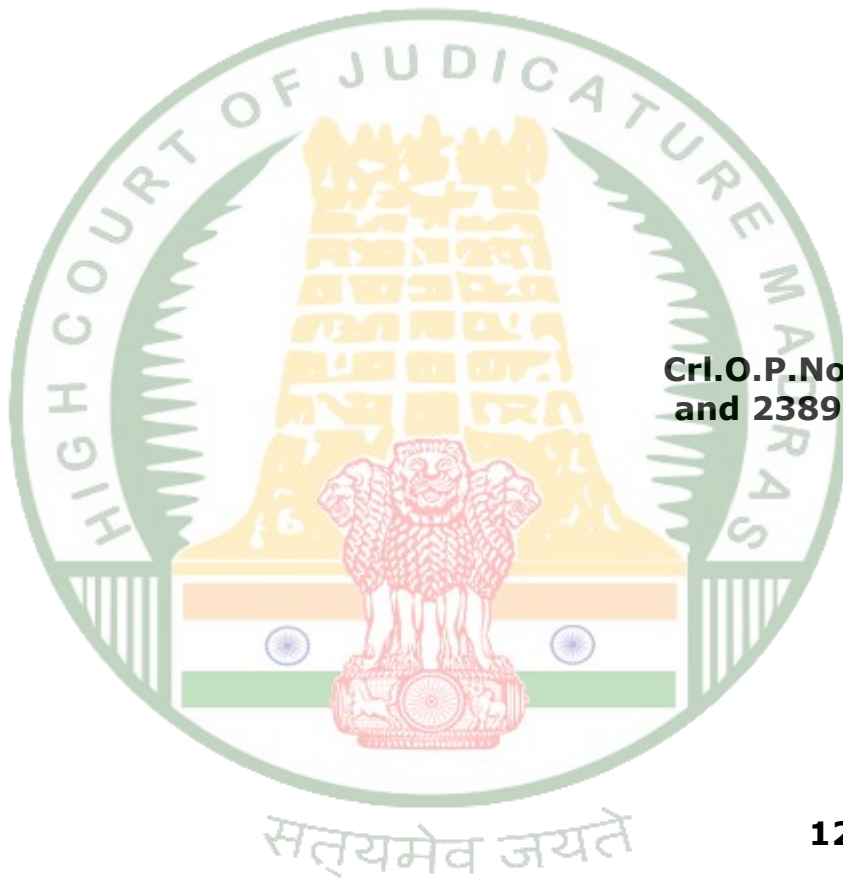
1. The Judicial Magistrate, Gudiyattam.

2. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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M.DHANDAPANI,J.
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**Crl.O.P.Nos. 23101
and 23892 of 2019**

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