

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.12614 of 2017

1.Chandraprabha
2.Beena @ Meena

... Petitioners

-Vs-

1. The State rep.by
The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore District.
(Crime No.34 of 2014)

2. K.Deeptha Kiruba

... Respondents

Prayer:

Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to C.C.No.55 of 2015 on the file of the Judicial Magistrate, Mettupalayam and quash the same as illegal.

For Petitioners : Mr.P.Kalimuthu

For Respondents : Mr.M.Mohammed Riyaz
APP for R1

: Mr.S.Shankar for R2

ORDER

This petition has been filed to quash the proceedings in C.C.No.55 of 2015, on the file of the learned Judicial Magistrate, Mettupalayam.

2. The petitioners are arrayed as A2 and A3 in C.C.No.55 of 2015 for the offences punishable under Sections 498 A 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/Suresh Kannan on 24.01.2011 and had a son out of their wedlock. It is alleged that the petitioners alongwith A1/husband tortured the 2nd respondent for additional demand of dowry and thrown out the 2nd respondent from her matrimonial home. Hence, the 2nd respondent filed a complaint before the 1st respondent police and after investigation, the 1st respondent police filed a charge sheet in C.C.No.55 of 2015, before the learned Judicial Magistrate, Mettupalayam.

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.55 of 2018, on the file of the learned Judicial Magistrate, Mettupalayam. 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.55 of 2015.

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 CrI.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.

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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.55 of 2015. Accordingly, this Criminal Original Petition stands dismissed.

7. However, considering the fact that the 1st petitioner is aged 70 years and is the mother-in-law of the 2nd respondent and the 2nd petitioner is the daughter-in-law of the 2nd respondent, their personal appearance before the trial Court in connection with C.C.No.55 of 2015 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. Considering

the calendar case is of the year 2015, the learned Judicial Magistrate, Mettupalayam, is directed to complete the trial within a period six months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

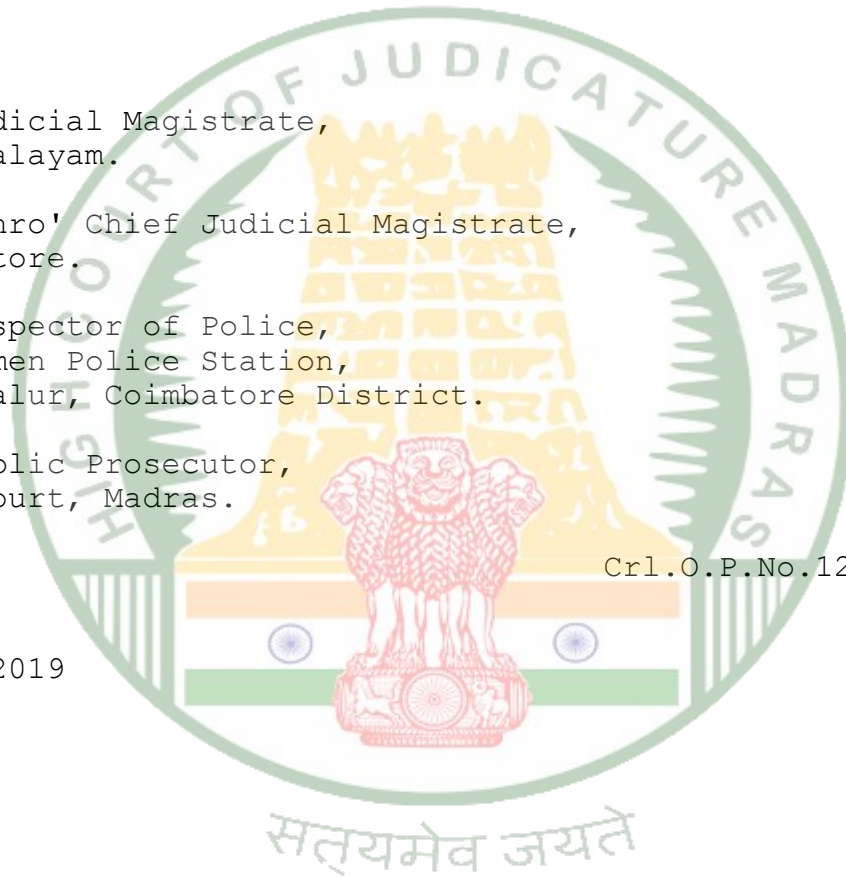
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To

1. The Judicial Magistrate,
Mettupalayam.
2. -Do- Thro' Chief Judicial Magistrate,
Coimbatore.
3. The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.
4. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.12614 of 2017

AK(CO)
CS/10/06/2019



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