

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM:

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

CRL.OP.No.16360 of 2017
and CRL.M.P.No.10079 of 2017

1. R.Barani
2. R.Vanmathi
3. R.Pradeep

... Petitioners

Vs.

1. State
Rep. by Sub-Inspector of Police,
All Women Police Station,
Villianur, Puducherry.

2. K.Ezhilarasi

... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records pertaining to the case in Cr.No. 9 of
2017 as against the petitioners herein, pending on the file of
the 1st respondent and quash the same.

For Petitioners: Mr.S.Premanand

For Respondents: Mr.V.Balamurugane - R1
Additional Public Prosecutor (Pondy)

M/s.S.Saravanakumar - R2

ORDER

The Criminal Original Petition has been filed to call for
the records pertaining to the case in Cr.No. 9 of 2017 as
against the petitioners herein, pending on the file of the 1st
respondent and quash the same.

2.The learned Counsel appearing for the petitioner would
submit that the petitioners are innocent persons and they have
not committed any offence as alleged by the prosecution. Without
any base, the first respondent police registered a case in Crime

No.9 of 2017 for the offence under Sections 498-A, 294(b), 506(ii) r/w 34 of IPC and Section 4 of Dowry Prohibition Act,1961 based on the complaint preferred by the 2nd respondent/wife as against the petitioners herein and the same is pending on the file of the 1st respondent police. Hence, he prayed to quash the same.

3.The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to attract the offence under under Sections 498-A, 294(b), 506(ii) r/w 34 of IPC and Section 4 of Dowry Prohibition Act,1961. He further submitted all the points raised by the petitioners are to be considered only during the trial. Therefore, he prayed for dismissal of this petition.

4.Heard, Mr.S.Premchand, learned counsel appearing for the petitioners, Mr. V.Balamurugan, learned Additional Public Prosecutor (Pondy) appearing for the first respondent and Mr. S. Saravanakumar learned counsel appearing for the second respondent and perused the materials available on record.

5.It is seen from the charge there are specific averments to attract the offences as against the petitioners. Further, it is also seen that there are materials to connect the petitioners to the offences. Moreover, all the points raised by the petitioners have to be considered only during the trial. The petitioners are at liberty to raise all the points before the Court below during the trial.

6. In this context, it is pertinent to refer the case of Sau. Kamal Shivaji Pokarnekars vs. the State of Maharashtra & ors in CrI.A.No.255 of 2019 dated 12.02.2019, the relevant paragraphs are extracted hereunder:

"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."

7. In view of the observations made in the judgment cited supra, this Court is not inclined to quash the proceedings in Cr. No. 9 of 2017 pending on the file of the 1st respondent. However, the 1st respondent police is directed to complete the investigation and file a final report before the concerned jurisdictional magistrate within a period of three months from the date of receipt of a copy of this order.

8. In view of the above, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ak

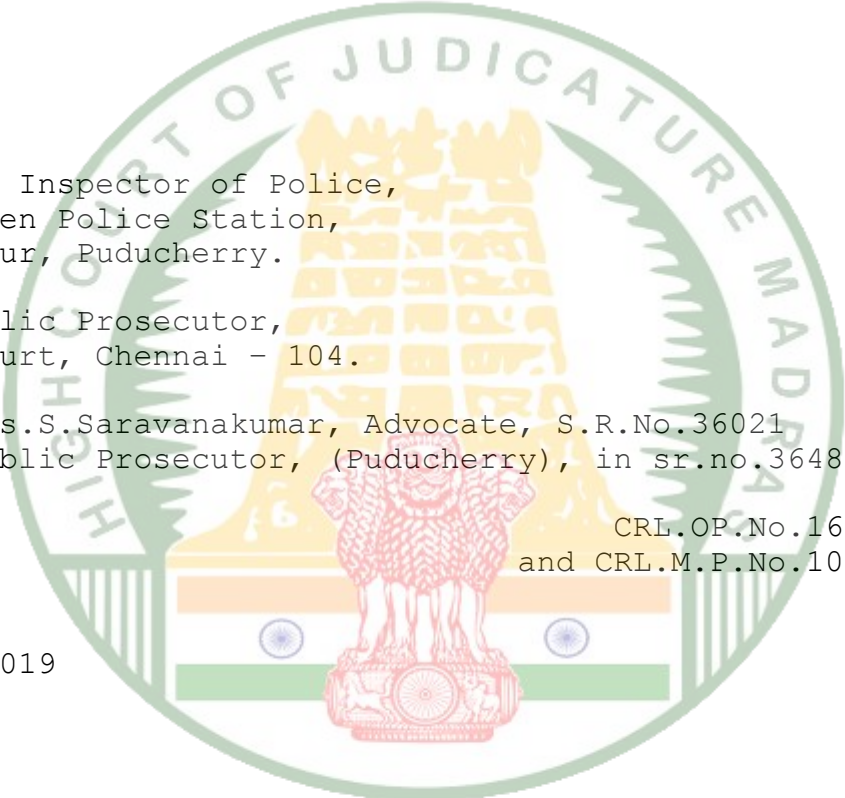
To

1. The Sub Inspector of Police,
All Women Police Station,
Villianur, Puducherry.
2. The Public Prosecutor,
High Court, Chennai - 104.

+1cc to M/s.S.Saravanakumar, Advocate, S.R.No.36021
+1cc to Public Prosecutor, (Puducherry), in sr.no.36486

CRL.OP.No.16360 of 2017
and CRL.M.P.No.10079 of 2017

AD(CO)
CS/17/06/2019



सत्यमेव जयते

WEB COPY