



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDANPANI

Crl.O.P.(MD)No.5182 of 2019

and

Crl.M.P.(MD)Nos.3262 & 3263 of 2019

WEB COPY

- 1.Mariam @ Mariyam Beevi
- 2.Hamilath @ Ramlath
- 3.Mammutha @ Mahthoon Beevi
- 4.Nagoor @ Nagoor Beevi
- 5.Lailal @ Lailal Beevi ... Petitioners 1 to 5/ Accused Nos.2 to 6

-Vs-

- 1.State rep. through
The Sub Inspector of Police,
All Women Police Station,
Thenkasi, Tirunelveli District.
In Crime No,.172/2017 ... 1st Respondent/Complainant

- 2.Fathima ...2nd Respondent/Defacto-Complainant

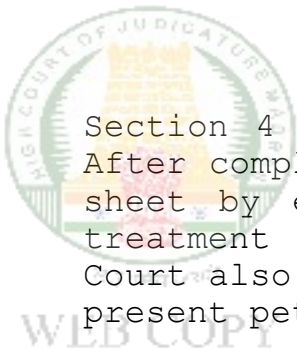
Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C, to call for the entire records pertaining to the final report in C.C.No.8 of 2019 charges u/s.147, 294(b), 323, 506(I) of IPC as against these petitioners is pending on the file of the learned Judicial Magistrate, Senkottai and quash the same as illegal as against these petitioners.

For Petitioners : Mr.S.A.S.Alaudeen
For R-1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the final report in C.C.No.8 of 2019, pending on the file of the learned Judicial Magistrate, Senkottai.

2.The case of the prosecution is that the marriage between the first accused and the defacto complainant/P.W.1 was solemnized in the year 2016. Thereafter, due to matrimonial dispute between them, the defacto complainant/P.W.1 went to her father's house. After some time, she returned to the matrimonial house on 25.05.2017 at 9.00 p.m. At that time, the first accused/husband and her in-laws viz., the petitioners herein abused her in filthy language and attacked her, in which, she sustained injuries and admitted in hospital. Thereafter, the respondent police registered a case. Initially the Law Enforcing Agency registered a case in Crime No.172 of 2017, under Sections 147, 294(b), 323 and 506(i) IPC and



Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. After completing investigation, the respondent police filed a charge sheet by examining 9 witnesses including the Doctor, who gave a treatment to the victim/defacto complainant, as P.W.6. The lower Court also assigned the case as C.C.No.8 of 2019, against which, the present petition has been filed by the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners are only in-laws and there is no specific overt act alleged against them. They are falsely implicated in the above said crime. They did not commit any offence as alleged by the prosecution. Thus, he prayed to quash the proceedings in respect of them.

4.The learned Government Advocate (criminal side) appearing for the State would submit that the defacto complainant sustained injury and admitted in the Hospital and in order to substantiate the same a Medical Certificate was also produced and the Doctor, who gave treatment was also examined.

5.There is no valuable ground raised in this petition. A perusal of records discloses the cognizable offences against the petitioners. This Court is of the view that a prima facie is made out against the petitioners. Further, this case does not fall in the parameter laid by the Hon'ble Apex Court in respect of quashing the case at the threshold in **State of Haryana and others vs. Bhajan Lal and others [1992 Supp. (1) SCC 335]**.

6. In view of the above, this Criminal Original petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

7.At this juncture, the learned Counsel for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

8.Accepting the said submission, the personal appearance of the petitioners before the trial Court is dispensed with on condition that they shall be present for receiving charge sheet, for answering the charges, at the time of questioning under Section 313 Cr.P.C., and at the time of passing judgment. However, the petitioners are directed to give an undertaking in the form of affidavit that the counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioner shall not dispute the identity of the witnesses.

Sd/-

Assistant Registrar (P&A)

/ True Copy /



1. The Judicial Magistrate,
Senkottai

2. The Sub Inspector of Police,
All Women Police Station,
Thenkasi, Tirunelveli District

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.A.S.ALAUDEEN, Advocate (SR-61907[F] dated 23/04/2019)

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ES/03.06.2019/3P/5C