



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
01.03.2019	11.03.2019

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THE HON'BLE MR.JUSTICE P.N.PRAKASH
Crl.O.P.(MD) No.1976 of 2014
and M.P.Nos.2 & 3 of 2014

1.Poomadevi
2.K.P.Balasubramanian
3.B.Mariammal
4.P.Nagarathinam
5.K.P.Gangadharan

... Petitioners/Accused No. 1
to 4 and 6

-vs-

AL.Muruganandham

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the complaint in C.C.No.64 of 2013 on the file of the Judicial Magistrate, Karaikudi, and quash the same as illegal.

For Petitioners : Mr.H.Lakshmi Shankar
For Respondent : Mr.A.K.Manickam for
Mr.AL.Kannan

O R D E R

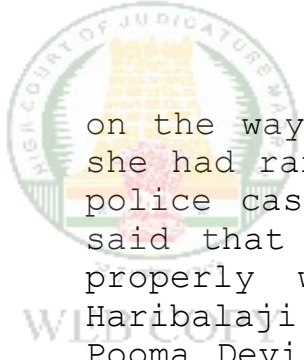
This quash application has been filed by the accused in C.C.No.64/2013, which is a private complaint that has been initiated against them by Muruganandham, the respondent herein before the Judicial Magistrate, Karaikudi for the offences, which the Judicial Magistrate, Karaikudi himself does not seem to know, as could be seen from his cognizance order dated 13.09.2013, which reads as under:

"Under Section 204 Cr.P.C. order dated 13.09.2013:-

On perusal of the documents and Sworn statement cognizance is taken issue summons to accused by 18.10.2013. Process, today."

Therefore, this Court plodded through the private complaint in C.C.No.64/2013 and the sworn statement.

2. In the private complaint, AL.Muruganandham the complainant has stated that on 08.06.2005, his son Haribalaji got married to Pooma Devi (A1) and after marriage, they settled down in Karaikudi; Haribalaji was working in BSNL; Haribalaji and his wife Pooma Devi went on honeymoon to Bangalore, Mysore and Ooty;



on the way, somewhere near Salem, Pooma Devi told Haribalaji that she had ran away with someone earlier, in connection with which, a police case was filed and she was secured, for which, Haribalaji said that he will not be affected by that, provided, she lives properly with him; however, Poomadevi (A1) started harassing Haribalaji continuously; the moment Haribalaji went for work, Pooma Devi (A1) would go out and will return very late; while so, Pooma Devi delivered a male child in the year 2006 at Madurai; after delivery, she was brought by Haribalaji to Karaikudi; the complainant and his wife decided to keep the couple separately thinking that Poomadevi will mend her ways; the complainant and his wife left Haribalaji and his wife Pooma Devi in the house and went to Chennai and settled there; Poomadevi quarreled with Haribalaji continuously; on 15.09.2007, Pooma Devi left the house for good along with her child, so Haribalaji initiated divorce proceedings in H.M.O.P.No.110/2008 before the Sub Court, Devakottai, wherein, he has narrated the cruelty inflicted by Pooma Devi on him; when Haribalaji had gone to Hyderabad on official work, on 06.04.2008, Pooma Devi and the other accused had forcibly entered the house and had taken away his dress, documents, educational qualification certificates, household articles etc and were in illegal occupation of the house; on coming to know of it, when the complainant and his wife went there, they were chased away. Hence, the complaint.

3. Even in the complaint, Muruganandham has stated that on the complaint given by Pooma Devi, a case in All Women Police Station Crime No.9/2008 was registered under Section 498(A) and 506(II) IPC and Section 4 of Dowry Prohibition Act against Haribalaji and his family members, which according to him, is a false case. It is further stated in the complaint that Muruganandham gave a complaint to the police, based on which, a case in Crime No.470/2010 was registered for the offences under Sections 147, 148, 427, 294(b) and 506(II) IPC against Pooma Devi and her family members. But the said case was closed as 'Mistake of Fact' on 02.02.2013. Therefore, he has filed the present private complaint.

4. At this stage, it may be relevant to state here that for the incident that is said to have taken place on 06.04.2008, the present private complaint has been preferred in the year 2013, after the FIR was closed as 'Mistake of Fact'. Of course, just because the FIR has been closed as 'Mistake of Fact', it does not mean that the complainant is left without any remedy. The complainant can still maintain a private complaint, if he has credible materials in hand. In this case, the primary allegations against Pooma Devi is that she has entered her matrimonial home on 06.04.2008 and had taken away the household articles of

<https://hcservicescourts.gov.in/hcservices/> the opinion of this Court, this complaint is clearly a counter-blast to the prosecution that was launched by Pooma Devi against her husband Haribalaji in Crime No.9/2008 under



Section 498(A) and 506(II) IPC and Section 4 of the Dowry Prohibition Act.

5. The learned counsel for the petitioners submitted that Haribalaji has been acquitted subsequently in the said case and that was only very recently. Just because Haribalaji was acquitted in that case, it does not mean that the allegations in the present case are true. The present case is clearly an abuse of process of law in order to harass Pooma Devi.

6. In the result, this criminal petition is allowed and the proceedings in C.C.No.64/2013 on the file of the Judicial Magistrate, Karaikudi is quashed. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To:
The Judicial Magistrate,
Karaikudi

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-53149[F] dated 12/03/2019)

RR

order made in
Crl.O.P. (MD) No.1976 of 2014
and M.P.Nos.1 to 3 of 2014
11.03.2019

_KM/ (22.03.2019) 3P 3C