

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 18.03.2019****CORAM:****THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Cr1.O.P. (MD) No.5180 of 2014****and****M.P. (MD) No.1 of 2014**

1.Maheboobnisha

2.SamsathBegum

... Petitioners / A1 & A2

vs.

P.A.Abdul Azees

... Respondent / Complainant

PRAYER: Petition is filed under Section 482 Cr.P.C., to call for the records pending on the file of the Learned Judicial Magistrate, Thiruvayaru In S.T.C.No.1903/13 and quash the criminal proceeding.

For Petitioners : Mr.S.Chellapandian

For Respondent : Mr.A.Thiruvadikumar

O R D E R

Maheboobnisha got married to Sahul Hameed on 27.12.2007 and thereafter, on account of matrimonial discord, they got estranged. Maheboobnisha gave a police complaint, based on which, a case in Thiruvaiyaru All Women Police Station Crime No.9 of 2009 was registered on 06.09.2009 against her in-laws. After completion of the investigation, the Police filed a charge sheet in C.C.No.52 of 2011, before the learned Judicial Magistrate, Papanasam, under Section 498-A I.P.C., and Section 4 of the Dowry Prohibition Act. Charges were framed against the accused for the said offence and they pleaded not guilty.

2. The prosecution examined eight witnesses and marked five documents to prove the charges. The Trial Court, by order dated 16.02.2013 acquitted all the accused in C.C.No.52 of 2011 by giving benefit of doubt. After the acquittal, one of the accused by name Abdul Azees has filed a private complaint in S.T.C.No.1903 of 2013, before the learned Judicial Magistrate, Thiruvaiyaru, against Maheboobnisha and her mother Samsath Begum for the offence punishable under Section 211 I.P.C., on the ground that a false complaint was lodged against him. Therefore, Maheboobnisha and her mother Samsath Begum have filed the present quash application.



3. Heard Mr.S.Chellapandian, learned counsel for the petitioners and Mr.A.Thiruvadikumar, learned counsel for the respondent.

4. Learned counsel for the respondent / complainant submitted that Maheboobnisha had given a false complaint before Thiruneelakudi Police, which was closed by the Police and thereafter, she has given a second complaint before the Inspector of Police, All Women Police Station, Thiruvaiyaru, based on which a case in Crime No.9 of 2009 was registered. Hence, he contended that Maheboobnisha is liable under Section 211 I.P.C.

5. In the opinion of this Court, Maheboobnisha was aggrieved by the acts of cruelty committed on her by the accused. Just because she had given a complaint earlier, which was closed by Thiruneelakudi Police, she cannot be estopped from giving another complaint. The All Women Police Station conducted investigation on the complaint given by Maheboobnisha and filed a charge sheet against four persons, including Abdul Azeez. Since there were *prima facie* materials, the learned Judicial Magistrate, Thiruvaiyaru, took cognizance of the complaint and even framed charges for the offences punishable under Section 498-A I.P.C. and Section 4 of the Dowry Prohibition Act. However, just because the Trial Court had eventually acquitted the accused by extending the benefit of doubt, the complaint given by Maheboobnisha cannot be said to be false so as to punish her under Section 211 I.P.C.

6. In the result, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.1903 of 2013, before the learned Judicial Magistrate, Thiruvaiyaru, are hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To:

The Judicial Magistrate,
Thiruvaiyaru.

+1cc to Mr.S.CHELLAPANDIAN, Advocate, SR.No.55042

+1cc to Mr.A.Thiruvadikumar, Advocate, SR.No. 54806

Crl.O.P. (MD) No.5180 of 2014

and

M.P. (MD) No.1 of 2014

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KK/SAB/29.03.2019/2P-4C

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