

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.03.2019**

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CORAM**THE HONOURABLE MR. JUSTICE B.PUGALENDHI****Cr1.O.P. (MD) No.2456 of 2016****Cr1.M.P. (MD) .Nos.1213 & 1214 of 2016**

R.Sreedevi

.. Petitioner/Accused No.2

Vs.

1.The State of Tamilnadu

Rep. by the Inspector of Police,

All Women Police Station,

Nagercoil, Kanyakumari District.

.. Respondent/Complainant

2.R.Subha

.. 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the final report/charge sheet in C.C.No.17 of 2015 on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District in so far as the petitioner is concerned.

For Petitioner : Mr.S.Xavier Rajini

For Respondents : Mr.R.Anandharaj

Additional Public Prosecutor for R1

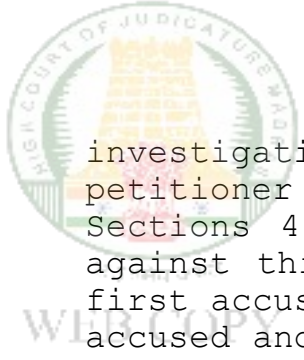
No Appearance for R2

ORDER

This petition is filed by the accused No.2 in C.C.No.17 of 2015 pending on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District, to quash the final report in respect of herself.

2.The private notice was taken by the petitioner in respect of the defacto complainant and proof of service also filed. But the defacto complainant has not appeared either in person or through any counsel. Hence, her name was printed in the cause list.

3.The first respondent police on the complaint of the second respondent has registered a case in Crime No.16 of 2014. After the



investigation, the final report has been filed against this petitioner and the accused No.1 for the offences punishable under Sections 498 A and 506(i) of IPC on 12.09.2014. The averment as against this petitioner is that this petitioner was working in the first accused company and was having illegal intimacy with the first accused and therefore, the defacto complainant warned the petitioner on 05.11.2013 as not to interfere in her matrimonial affair. For that, the petitioner along with accused No.1, went to the house of the defacto complainant on 15.12.2013 at about 6.00 p.m. and has stated that she will live with A1 and if the complainant intend to separate them, they would kill her. Therefore, this complaint was lodged on 18.06.2014 by the defacto complainant and the final report was filed on 30.08.2014 for the offences punishable under Section 498 A and 506(i) IPC.

4.The learned counsel for the petitioner would submit that even according to the complainant, the petitioner, who is arrayed as A2, was working in the first accused's shop and was in illegal intimacy with the first accused. Therefore, the offence under Section 498 A IPC cannot be charged as against this petitioner. The offence under Section 498 A will be made out only as against the husband or the relative of the husband of a woman, who subjects such woman to cruelty.

5.The learned counsel for the petitioner further submits that in the judgment in **U.Suvetha Vs. State by Inspector of Police** and another reported in **(2009) 6 Supreme Court Cases 757**, the Honourable Supreme Court, discussed the term 'relative' as contemplated under Section 498 A of IPC in detail in Paragraph 11 of the judgment as follows:

"11.The word "relative" has been defined in P.Ramanatha Aiyar's Advanced Law Lexicon, Vol4, 3rd Edn. as under:

"Relative. - 'Relative' includes any person related by blood, marriage or adoption (Lunacy Act ...)

The expression 'relative' means a husband, wife, ancestor, lineal descendant, brother or sister. (Estate Duty Act ...)

'Relative' means in relation to the deceased,

(a) the wife or husband of the deceased,

(b) the father, mother, children, uncles and aunts of the deceased and

(c) any issue of any person falling within either of the preceding sub-clauses and the other party to a marriage with any such person or issue. (Estate Duty Act...)

A person shall be deemed to be a relative of another if, and only if -

(a) they are members of a Hindu undivided

family; or

(b) they are husband and wife; or

(c) the one is related to the other in the



manner indicated in Schedule I-A (Companies Act (1 of 1956...))

'Relative' in relation to an individual means -

(a) the mother, father, husband or wife of the individual, or

(b) a son, daughter, brother, sister, nephew or niece of the individual, or

(c) a grandson or granddaughter of the individual, or

(d) the spouse of any person referred to in Sub-clause (b). (Income Tax Act ...)

'Relative' means -

(1) spouse of the person;

(2) brother or sister of the person;

(3) brother or sister of the spouse of the person;

(4) any lineal ascendant or descendant of the person;

(5) any lineal ascendant or descendant of the spouse of the person;"

It is further held that the word 'relative' brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise.

6. In subsequent judgment in **Sunitha Jha Vs. State of Jharkhand and another** reported in (2010) 10 Supreme Court Cases 190, the decision rendered in **U. Suvetha Vs. State** was followed by the Honourable Supreme Court.

7. In view of the above decisions rendered by the Honourable Supreme Court, this Court finds that this petitioner cannot be pressed with the liability of section 498 A as per the averments contained in the final report and therefore, the charge under Section 498 A would not stand.

8. Apart from that, the final report was also filed for the offence under Section 506(i) IPC also. The occurrence was taken place on 15.12.2013, for which the complaint was lodged on 18.06.2014. It is alleged that on 15.12.2013, the petitioner accompanied with A1, went to the house of the defacto complainant and also intimidated her as if she is interfering with the affairs. If the defacto complainant really felt the intimidation, she would have lodged the complaint immediately after the occurrence. But, this complaint was lodged belatedly, after six months from the date of occurrence. Therefore, this Court feels that the offence under Section 506(i) is also not made out as against this petitioner.

9. In view of the above discussions, the final report filed in C.C.No.17 of 2015 on the file of the Judicial Magistrate No.II, Nagercoil, Kaniyakumari District, is quashed insofar as the



petitioner is concerned.

10. Accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No. II, Nagercoil, Kanyakumari District.

2. The Inspector of Police,
All Women Police Station,
Nagercoil, Kanyakumari District.

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

+1cc to Mr. S. XAVIER RAJINI, Advocate, SR.No. 56449

Cr1.O.P. (MD) No. 2456 of 2016

TM

KK/SAR/16.04.2019/ 4P- 5C