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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P. (MD)No.3353 of 2016

and

Crl.M.P. (MD)No.1707 of 2016

1.Farzhan Fatima @ Fathima Farzana

2.Ebai @ Syed Ibrahim

... Petitioners

Vs.

1.The State rep. by

The Inspector of Police,

C2 Subramaniapuram Police Station,

Madurai.

Crime No.796 of 2015

2.Jayaraj

... Respondents

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the First Information Report in Crime No.796 of 2015 dated 14.08.2015 on the file of the Inspector of Police, C2 Subramaniapuram Police Station, Madurai District and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.R.Anandharaj

Additional Public Prosecutor for R.1

: Mr.N.Sathiyendran for R.2

ORDER

This Criminal Original Petition has been filed by the petitioners to quash the First Information Report pending as against them in Crime No.796 of 2015 on the file of the first respondent police.

2. The first petitioner is the wife of the defacto complainant's son, one Praveen Kumar. They got married out of a love affair and the marriage was, subsequently, broken out due to misunderstanding between the parties. Thereafter, the first petitioner has filed a petition as against her husband and in-laws for maintenance and other reliefs under the Prevention of Women from Domestic Violence Act before the Additional Mahila Court, Madurai and the same got transferred and pending in M.C.No.80 of 2018 before the Family Court, Madurai. The first petitioner has also filed a petition for restitution of conjugal rights before the Family Court,



Madurai, in O.S.No.9 of 2016. While so, in order to wreck vengeance and as a retaliation, the present complaint has been foisted against them for having filed the petition under the Prevention of Women from Domestic Violence Act. Therefore, the petitioners pray for allowing the present petition by quashing the impugned complaint.

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3. Per contra, the learned Counsel appearing for the second respondent / defacto complainant submitted that the complainant is a retired employee and living with his wife separately at Fenner Colony. In fact, they have not arranged the marriage between their son and the first petitioner and after the marriage, they are living separately without any contact with their son and the first petitioner herein. The husband of the first petitioner / the complainant's son is also residing in Abroad. In order to harass the complainant, the petitioners came to their house on 18.04.2015, assaulted his wife, pulled her hair and due to which, his wife had fainted. The petitioners had also intimidated to set them fire by pouring petrol and hence, they lodged the complaint.

4. He further submitted that though the complainant has lodged a complaint before the respondent police as early as on 08.05.2015, the respondent police has not acted upon the same and only after the directions of this Court in CrI.O.P.(MD)No.11138 of 2015, the case in Crime No.796 of 2015 has been registered. Therefore, he prays for dismissal.

5. Heard the learned Counsel on either side and perused the documents placed on record.

6. The only ground on which the petitioners has assailed the First Information Report is that on account of the complaint filed by the first petitioner under the Protection of Women from Domestic Violence Act, this complaint has been foisted as a counter complaint to her complaint. The learned Counsel for the petitioners has also relied upon the order passed by the Additional Mahila Court, Madurai, in Cr.M.P.No.1924 of 2015 in M.C.No.50 of 2015, dated 27.10.2015, wherein the first petitioner was permitted to occupy the matrimonial house.

7. On a perusal of the said order copy dated 27.10.2015, it appears that the complainant and his wife, though added as a party, have not entered appearance in M.C.No.50 of 2015. This Court is not in a position to find out whether any summons has been served upon them or not. The investigation is at the threshold and this Court, while admitting this Criminal Original Petition on 26.02.2016, has granted an order of interim stay. While so, this Court is of the view that it is not safe to quash the First Information Report, on this sole ground.

8. In fine, this Criminal Original Petition is dismissed. <https://hcservices.ecourts.gov.in/hcservices/> however, considering the stage of the proceedings, the first respondent police is directed to proceed with the investigation and



conclude the same within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (C.O)

Sub Assistant Registrar(CS)

gk

To

The Inspector of Police,
C2 Subramaniapuram Police Station,
Madurai.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate SR-59818.

Cr1.O.P. (MD)No.3353 of 2016
and
Cr1.M.P. (MD)No.1707 of 2016
08.04.2019

CS: (03/06/2019) 3P 3C