



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.6589 of 2019

and

Crl.M.P.(MD)Nos.4381 and 4382 of 2019

WEB COPY

- 1.Shahul Hameed
- 2.Niloburnisha
- 3.Jahir Hussain
- 4.Meharaj
- 5.Rojabegum
- 6.Faritha

... Petitioners 1 to 6

-Vs-

- 1.State rep.through the
Sub Inspector of Police,
All Women Police Station,
Theni.
(Crime No.28 of 2017)

... Respondent/Complainant

- 2.Rakumath Nisha

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records pertaining in impugned charges sheet in C.C.No.262 of 2018 on the file of the learned Judicial Magistrate, Theni and quash the same as illegal as against these petitioners.

For Petitioners	: Mr.C.M.Arumugam for Mr.S.A.S.Alaudeen
For R1	: Mr.K.Suyambulinga Bharathi Government Advocate(Crl.side)
For R2	: Mr.T.Thirumurugan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.262 of 2016, on the file of the learned Judicial Magistrate, Theni.

2.There are totally seven accused in this case, in which the petitioners are arrayed as A1 to A6. The first and second accused are father in law and mother in law of the second respondent and other petitioners are not the family members of the second respondent. The second respondent /defacto complainant got married with the first accused. Thereafter, at the instigation of the petitioners, the first accused tortured the second respondent and



demanded huge dowry from her. Therefore, she lodged the compliant before the respondent police.

3.The second respondent police after completion of investigation registered the case in Crime No.28 of 2017, for the offence punishable under Sections 294(b), 498(A), 506(i), 109 IPC and Section 4 of Tamil Nadu Prohibition of Woman Harassment Act and Section 4 of Dowry Prohibition Act.

4.On perusal of the charge sheet and the statements recorded under Section 161(3) Cr.P.C, discloses the fact that the petitioners only instigated the first accused to torture the second respondent and demanded more dowry from the second respondent. The first and second petitioners are father in law and mother in law of the second respondent. Insofar as the petitioners 4 to 6, they are close relatives of the second respondent.

5.It is also seen that after marriage, the first accused and the second respondent went abroad and lived there. There was some misunderstanding between them, the second respondent went out from the matrimonial home. Therefore, no offence was took place in India to attract the offence as against the petitioners.

6.In this regard, it is relevant to the Honourable Supreme Court of India in the case of **K.Subba Rao and others Vs. The State of Telangana, Rep. by its Secretary, Department of Home and others**, and the relevant portion is extracted here under:

"5.Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of process of a Court. This Court, at the same time, does nothessitate to interfere to secure the ends of justice. See State of Haryana V.Bhajan Lal 1992 Supp (1) SCC 355. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See Kans Raj V.State of Punjab and others. (2005) 5 SCC 207 and kailash Chandra Agrawal and Anr. V. State of Uttar Pradesh and others. (2014) 16 SCC 551.

6.The counsel for the second respondent submitted that certain documents belonging to the second respondent were seized from the appellants which would show their active involvement in the kidnapping of her child. On an overall consideration of the contents of the charge sheet, supplementary charge sheet and the submissions made on behalf of the respondent No.2, we are of the opinion that a prima facie case has not been made out



against the Appellants for proceeding against them under Sections 468 A, 120 B, 420 and 365 IPC.

7.In the case on hand, the petitioners 1 to 3 are family members of the first accused. Insofar as the petitioners 4 to 6 are concerned, they are completely out siders and no way connected with the other accused.

8.That apart all the allegations are vague and there are no specific averment as against the petitioners 4 to 6. Therefore, the above judgment is squarely applicable to the case on hand.

9.This Court finds that no allegation is made out as against the petitioners 4 to 6 are concerned to attract the offence under Section 498(A) and 109 IPC and Section 4 of Dowry Prohibition Act.

10.In view of the above discussion, the proceeding in C.C.No.262 of 2018, on the file of the learned Judicial Magistrate, Theni, is hereby quashed as against the petitioners 4 to 6 alone. Insofar as the petitioners 1 to 3 are concerned, this petition is dismissed.

11.However, the personal appearance of the petitioners 1 to 3 is dispensed with before the trial Court, except for furnishing copies, framing charges, questioning under Section 313 Cr.P.C and at the time of judgment.

12.The trial Court, namely, the learned Judicial Magistrate, Theni, is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

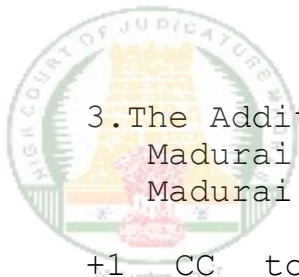
Sub Assistant Registrar(CS)

Das

To

1.The Judicial Magistrate, Theni.

2.The Sub Inspector of Police,
All Women Police Station,
Theni.



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

+1 CC to Mr.T. THIRUMURAGAN, Advocate (SR-100932[F] dated
25/11/2019)

+1 CC to Mr.S.A.S ALAUDEEN, Advocate (SR-101836[F] dated
27/11/2019)

Crl.O.P.(MD)No.6589 of 2019

and

Crl.M.P.(MD)Nos.4381 and 4382 of 2019

25.11.2019

MK (13.12.2019) 4P 6C