



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.8829 of 2019

and

Crl.M.P.(MD)Nos.5584 and 5585 of 2019

1.M.Vivekanandan
2.Gandhi Devi
3.Vinothkumar

...Petitioners/Accused 2 to 4
-Vs-

1.State Represented by
Inspector of Police,
All Women Police Station,
Cantonment Trichy,
Trichy.
Crime No.1 of 2019

... Respondent/Complainant

2.Yoga Rani

... Respondent/1st Informant

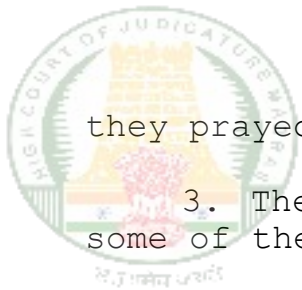
Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records from the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in C.C.No.832 of 2019 and quash the same as it has no prima facie case against the petitioners.

For Petitioners	: Mr.K.Vinayagan
For R1	: Mr.R.Anandharaj Additional Public Prosecutor
For R2	: M/s.S.Bharathi

O R D E R

This petition has been filed to quash the proceedings in C.C.No.832 of 2019, on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, insofar as petitioners are petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.1 of 2019, for the offences under Sections 498(A), 294(b), 506(1) of IPC and Section 4 of Dowry Prohibition Act, 1961, as against the petitioners and taken cognizance for in C.C.No.832 of 2019. Hence



they prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that some of the witnesses have been examined in this case.

4. Heard Mr.K.Vinayagan, learned counsel appearing for the petitioners, Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the first respondent and M/s.S.Bharathi, learned counsel appearing for the second respondent.

5.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **CrI.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6. Recently, the Hon'ble Supreme Court of India held in respect of the very same issue in **CrI.A.No.1572 of 2019 - Central Bureau of Investigation Vs. Arvind Khanna**, wherein, it has been held as follows:

"19.After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most



minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

The above judgment is squarely application to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

7. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.832 of 2019 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli. Hence this Criminal Original Petition stands dismissed. Consequently, Crl.M.P(MD) No.5584 of 2019 is closed and Crl.M.P(MD) No.5585 of 2019 stands allowed. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

8. Further, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

sjj

To

1.The Judicial Magistrate, Additional Mahila Court,
Tiruchirappalli.

2.The Inspector of Police,
All Women Police Station,
Cantonment Trichy, Trichy.



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

+1 CC to M/s.K.VINAYAGAN, Advocate (SR-99492[F] dated 19/11/2019)

+1 CC to M/s.S. BHARATHI, Advocate (SR-100097[F] dated 21/11/2019)

Crl.O.P.(MD)No.8829 of 2019
19.11.2019

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