



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.10.2019

Pronounced on : 18.10.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) Nos.11766 and 9861 of 2019

and

Crl.M.P.(MD) Nos.7396, 7397, 6236 and 6237 of 2019

1.R.Sujatha

... Petitioner/A2 in
Crl.O.P(MD) No.11768/2019

2.S.Sruthi Krishna

... Petitioner/A3 in
Crl.O.P(MD) No.9861/2019

Vs

N.R.Rekha

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to private complaint filed by the respondent in C.C.No.117 of 2019 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District under Sections 498 A, 406, 323 and 354 of Indian Penal Code and Sections 3, 4 & 6(a) of the Dowry Prohibition Act and quash the same as illegal as against the respective petitioners.

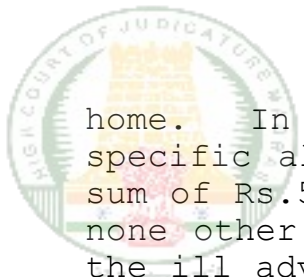
For Petitioners : Mr.T.Lajapathi Roy

For Respondent : Mrs.N.R.Rekha, party-in-person

COMMON O R D E R

These petitions have been filed to quash the proceedings in C.C.No.117 of 2019 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District, having been taken cognizance for the offences under Sections 498 A, 406, 323 and 354 of Indian Penal Code and Sections 3, 4 & 6(a) of the Dowry Prohibition Act.

2.The learned counsel appearing for the petitioners submitted that the respondent filed a private complaint alleging that her husband along with his relatives harassed the respondent and demanded dowry. It is further alleged that they spoiled her life and thereby, they have committed various offences. He further submitted that A3 is the niece of A1, who is the husband of the respondent herein. The main allegation alleged in the complaint is that the respondent faces harassment from the hands of the accused persons from the year 2002, when she entered into the matrimonial



home. In the year 2002, A3 was only aged about 12 years. The specific allegation against the petitioners is that A2, received a sum of Rs.5 lakhs from the 1st accused for the welfare of A3, who is none other than the daughter of A2 and she created problems and on the ill advice of A2, A1 gave so much of money to the welfare of A3. A1 only spent money for the marriage of A3. Except these allegations, to attract the offence as alleged by the respondent, no averment or allegations made in the complaint as against the petitioners. Even according to the respondent/complainant, the petitioners have nothing to do with the dispute between the 1st accused and the respondent herein and hence, they sought for quashment of the entire proceedings as against the petitioners.

3.Per contra, the respondent filed counter affidavit and submitted that she is a practising advocate in the Nagercoil Bar. She lodged a complaint and after recording her sworn statement and perusal of the materials evidence, the learned Judicial Magistrate found prima facie on the complaint and rightly had taken cognizance for the offences under Sections 498 A, 406, 323 and 354 of Indian Penal Code and Sections 3, 4 & 6(a) of the Dowry Prohibition Act as against the accused persons.

4.She further submitted that there are totally 5 accused, in which, the petitioners arraigned as A2 and A3 respectively. A2 is none other than the elder sister of A1 and A3 is the daughter of A2. The 1st accused is the husband of the respondent. A2 and A3 are living with A1 and as such, they only created all the problems and they are the reason for the entire dispute between the 1st accused. After her marriage, she was treated as a slave in the matrimonial home only on the ill advice of A2. That apart, she also received a sum of Rs.5 lakhs from A1 and A2 used to take care of A3 and thereby, they caused so much of disturbances to their matrimonial life and as such, there was a misunderstanding between the 1st accused and the respondent. As far as the third accused is concerned, there is absolutely no ground to quash the criminal proceedings, since at the time of the marriage between the 1st accused and the respondent, she was aged about 14 years and also attained puberty. She was a fully grown girl and all the allegations are made as against A3 are genuine and only on the ill advice of A2 and A3, A1 harassed her and hence, she prayed for the dismissal of the quash petition.

5.Heard the learned counsel appearing for the petitioners and the respondent, who appeared party-in-person and perused the materials available on records.

6.The respondent is the wife of the 1st accused, who lodged the private complaint and the same has been taken cognizance for the offences under Sections 498 A, 406, 323 and 354 of Indian Penal Code and Sections 3, 4 & 6(a) of the Dowry Prohibition Act by the trial court. There are totally five accused, in which the petitioners



arraigned as A2 and A3 respectively, who are none other than the mother and daughter. A2 is the sister of A1.

7.On perusal of the complaint, all the allegations made by the respondent are bald and vague as against the petitioners. The only specification is that A1 gave a sum of Rs.5 lakhs to A2 to the welfare of A3. At the time of marriage between A1 and the respondent, A3 was a child. A2 and A3 were taken care of by A1, since he is the only brother. Due to which, there was misunderstanding between A1 and the respondent. The entire allegations made in the complaint do not prima facie constitute any offence or make out a case as against the petitioners. The entire complaint is absurd and inherently improbable on the basis of which, the petitioners cannot be prosecuted for the offences as alleged by the respondent herein.

8.The complaint lodged by the respondent is with the malafide intention and also maliciously instituted with an ulterior motive for wrecking vengeance against the petitioners. It is also seen from the complaint that no date, time and place of occurrence has been mentioned. The entire allegations are bald, vague and trivial in nature. Therefore, the petitioners do not go for the ordeal of trial. The entire complaint as against the petitioners is abuse of process of Court. Therefore, the complaint cannot be sustained as against the petitioners herein.

9.In view of the above discussions, both the criminal original petitions are allowed. The complaint in C.C.No.117 of 2019 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District is quashed as against the petitioners herein alone. The trial Court is directed to proceed with the trial in C.C.No.117 of 2019 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District against the other accused persons and complete the same and dispose of the case, within a period of 6 months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate,
Eraniel, Kanyakumari District



CRL.O.P (MD) No.11768 and 9861 of2019

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-93261[F] dated
21/10/2019)

Order made in

CRL.O.P (MD) Nos.11766 and 9861 of 2019

18.10.2019

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