



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.779 of 2018

WEB COPY

1. M. Muthu Ruvi
2. M. Periapandiyammal
3. M. Muthukumar
4. Suresh Kumar
5. S. Divya

... Petitioners /Accused Nos.3,4&6 to 8

-Vs-

- 1.The Inspector of Police
Ottanchathiram Police Station,
Dindigul District
(in Crime No. 10 of 2016)

... Respondent/Complainant

2. Nishanthi

... Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No. 205 of 2017 pending on the file of the Learned Judicial Magistrate, Ottanchathiram, Dindigul District.

For Petitioner	: Mr.C.M.Arumugam
For R1	: Mr.R.Anandharaj
	Additional Public Prosecutor
For R2	: No appearance

O R D E R

This petition has been filed to quash the proceedings in C.C.No.205 of 2017 on the file of the learned Judicial Magistrate, Ottanchathiram, Dindigul District, for the offences under Sections, 498A, 406, 294(b) and 506(i) I.P.C.

2. There are totally eight accused, in which, the petitioners are arrayed as A3, A4, A6, A7 and A8. On the complaint lodged by the second respondent a case has been registered in Crime No.10 of 2019 by the first respondent for the offences under Sections, 498A, 406, 294(b) and 506(i) I.P.C.

3. The crux of the allegation is that the marriage was solemnized between A1 and the second respondent on 09.06.2008. At the time of marriage, the parents of the second respondent presented jewels and other ornaments along with household articles. Out of their wedlock, they blessed with two children. In the year 2009,



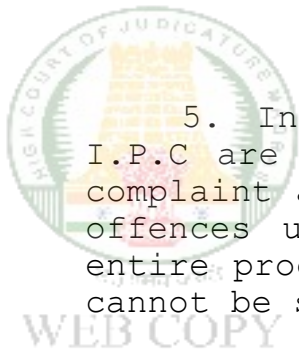
marriage was solemnized between the sister of the second respondent/Vinothini and the fourth petitioner herein. Thereafter, the said Vinothini died and as such the fourth petitioner got married with one Divya, who is none other than the daughter of A5. It is also seen that the petitioners 1 to 4 are in-laws of the second respondent. Even according to the case of the prosecution, the petitioners are residing in separate house along with their respective family members, the entire allegation is alleged as against the first accused. In so far as the petitioners are concerned they only instigated the first accused to harass the second respondent herein. Further alleged that all the accused persons refused to return jewels and Education certificate to the second respondent. Except these allegations, there is no other allegation to attract any of the offence as alleged by the prosecution. It is also seen from the statement of the witnesses that there is no evidence to attract any other charge as against the petitioners. The entire allegations are bailable and no specific averments or allegations made against the petitioners herein. In the dispute between the husband and wife normally the wife implead all the family members in the complaint. In the case on hand, without even conducting enquiry, the first respondent mechanically filed the charge sheet as against all the family members without even iota of evidence to attract the evidence as alleged by the prosecution. In this regard, it is relevant to Section 498-A, which reads as follows:

498A: Husband or relative of husband of a woman subjecting her to cruelty :- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation —For the purpose of this section, "**cruelty**" means — (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

4. Insofar as the charge under Section 498-A of IPC, the prosecution did not prove the same. As discussed above there is no clinching evidence that the accused demanded any dowry from the defacto complainant's family. In view of the above, this Court is of the opinion that the prosecution failed to make out the charge under Section 498-A of IPC against the accused persons.



5. Insofar as the offences under Section 294(b) and 506(i) I.P.C are concerned there is absolutely no allegation even in the complaint and no one has spoken about the allegation to attract the offences under Sections 294(b) and 506(i) I.P.C. Therefore, the entire proceedings is nothing but clear abuse of process of law and cannot be sustained as against the petitioners herein.

6. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No. 205 of 2017 pending on the file of the learned Judicial Magistrate, Ottanchathiram, Dindigul District, is hereby quashed insofar as the petitioners /A3, A4, A6, A7, A8 are concerned.

7. Insofar as the other accused are concerned, the trial Court is directed to complete the trial in C.C.No.205 of 2017 within a period of six months from the date of the receipt of a copy of this order. It is made clear that any of the observation made by this Court as against the petitioners should not influence the mind of the trial Court and proceed with the trial in accordance with law.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate,
Ottanchathiram,
Dindigul District.
- 2.The Inspector of Police
Ottanchathiram Police Station,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.C.M.ARUMUGAM, Advocate (SR-94023[F] dated 23/10/2019)

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MK (14.11.2019) 3P 5C