



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

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Crl.O.P(MD) . Nos.10968 of 2014 and 14729 of 2015

and

Crl.M.P.(MD)Nos.1 and 2 of 2014 and 1 of 2015

Crl.O.P(MD) . Nos.10968 of 2014

1.G.N.Kumar
2.Nagarajan
3.Mariammal
4.Sathiya

... Petitioners/Accused No.1 to 4

Vs

1.The Inspector of Police,
All Women Police Station,
Vadamadurai, Dindigul District.
(Crime No.28 of 2013)

...Respondent/Complainant

2.Santhiveeri @ Santhiya

...Respondent/De-facto complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to the charge sheet in C.C.No.24 of 2014, on the file of the District Munsif-cum-Judicial Magistrate Court, Natham and quash the same.

For Petitioners	: Mr.M.Subashbabu
For Respondents	: Mr.A.Robinson
	Government Advocate (Crl. side)
	(for R1)
	Mr.S.M.A.Jinnah (for R2)

Crl.O.P(MD) . No.14729 of 2015

G.N.Kumar

... Petitioner

Vs.

Santhiveri @ Santhiya

... Respondent

Prayer: Criminal Original Petition filed under Section 407 of Cr.P.C. to withdraw the M.C.No.7 of 2013, on the file of the learned Judicial Magistrate, Natham and transfer the same to the learned Judicial Magistrate Court, Thirumangalam.



For Petitioner : Mr.S.Alagusundar
For Respondent : Mr.S.M.A.Jinnah

COMMON ORDER

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This is a matrimonial issue. The respondent/Santhiveri @ Santhiya and G.N.Kumar got married in the year 2011. Their relationship came under strain and G.N.Kumar is said to have filed HMOP for divorce. It was allowed ex-parte.

2.The learned counsel appearing for the wife states that she has filed a petition to set aside the same. Be that as it may, the wife had given criminal case against her husband and in-laws, leading to registration of Crime No.28 of 2013, on the file of the All Women Police Station, Vadamadurai, the same was investigated and final report was filed before the learned District Munsif-cum-Judicial Magistrate, Natham for the offences punishable under Sections 498(A), 452, 506(ii) of I.P.C and Section 4 of Dowry Prohibition Act. Cognizance of the offences was taken and a case was taken on file in C.C.No.24 of 2014. The wife also filed maintenance case in M.C.No.7 of 2013 before the very same Court. To quash C.C.No.24 of 2015, Crl.O.P.(MD)No.10968 of 2014 has been filed. To quash the maintenance case, Crl.O.P.(MD)No.14729 of 2015 has been filed. In the C.C, the husband, the parents of the husband and sister-in-law have been arrayed as an accused.

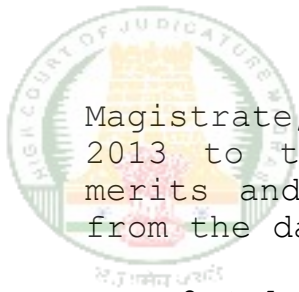
3.The learned counsel for the accused states that the mother-in-law/Mariamammal has since been passed away. He also submitted that the sister-in-law has subsequently got married and she is now settled elsewhere.

4.This Court suggested that the husband and the second petitioner will have to face the trial and establish their case on merits and if the petitioners are willing for the said course of action, this Court would consider the case of the sister-in-law for quashing the impugned proceeding.

5.At this stage, the learned counsel for the de-facto complainant submitted that admittedly the 10 sovereigns of gold are still with the first petitioner G.N.Kumar.

6.The learned counsel for the accused states that on the next hearing date before the learned Judicial Magistrate, the 10 sovereigns of gold belonging to the de-facto complainant will be handed over to her and obtain receipt therefor. This undertaking of the petitioners' counsel is placed on record.

7.The learned counsel appearing for the husband withdraws the Crl.O.P.(MD)No.14729 of 2015. Hence, this Crl.O.P.(MD)No.14729 of 2015 is dismissed as withdrawn. However, the learned Judicial



Magistrate, Natham is directed to conclude the case in M.C.No.7 of 2013 to the learned Judicial Magistrate Court, Thirumangalam on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.

8.Crl.O.P.(MD).No.10968 of 2014 is dismissed as far as the first and second petitioners are concerned (G.N.Kumar and Nagarajan). Considering the age of the second petitioner, the personal appearance of the second petitioner before the Court below shall stand dispensed with. The Trial Judge shall not insist on the personal appearance of the second petitioner unless it is absolutely necessary or imperative. The second petitioner shall of course be present to answer the charges and at the time of examination under Section 313 of Cr.PC and at the time of pronouncing judgment. Except these three occasions, on other hearing dates the second petitioner can be represented through counsel. If the second petitioner's counsel is also not present before the court below, the benefit of dispensing the personal appearance of the second petitioner will stand automatically vacated.

9. It is seen that the fourth petitioner/Sathiya is only sister-in-law. During the relevant time she was pursuing her BDS studies. It is seen that the primary allegations are only against the husband and the parents-in-law. No specific allegations have been made against the fourth petitioner. she has been roped in along with her in laws in a general manner. Continuance of the impugned prosecution against her would only be an abuse of legal process. Therefore, the impugned proceeding in C.C.No.24 of 2015 stands quashed as far as the fourth petitioner is concerned.

10.Accordingly, Crl.O.P.(MD)No.10968 of 2014 is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS)

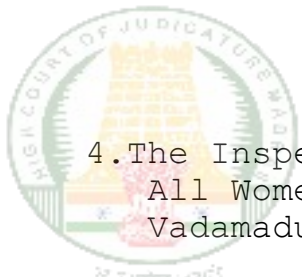
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To

1.The District Munsif-cum-Judicial Magistrate Court, Natham.

2.The Judicial Magistrate, Natham.

3.The Judicial Magistrate, Thirumangalam.



4.The Inspector of Police,
All Women Police Station,
Vadamadurai, Dindigul District.

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

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-93493[F] dated
22/10/2019)

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-93875[F] dated 23/10/2019)

sji
Crl.O.P(MD) . Nos.10968 of 2014 and 14729 of 2015
21.10.2019

AC (CO)
TR(23.03.2020) 4P 8C