



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.21948 of 2014 and

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

WEB COPY

1. Shanmuga Prasanna Karunakaran
 2. Dr.Karunakaran
 3. Sundra Vadivu ... Petitioners/Accused
Vs.
1. The Inspector of Police,
All Women Police Station(South),
Madurai.
(Crime No.7 of 2014) ... 1st Respondent/Complainant
 2. S.Amutha Kalimuthu ... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.576 of 2014 on the file of the learned Judicial Magistrate(Additional Mahila Court), Madurai and quash the same.

For Petitioners : Mr.Parthasarathy,
for Mr.K.P.S.Palanivelrajan.
For R-1 : Mr.A.Robinson,
Government Advocate (Crl. Side).
For R-2 : Mr.S.Ravi

ORDER

The first petitioner Thiru.Shanmuga Prasanna Karunakaran got married to S.Amudha Kalimuthu on 10.09.2006. Even prior to the said marriage, Thiru.Shanmuga Prasanna Karunakaran was employed in U.S.A.

2. It appears to be a love-cum-arranged marriage. The matrimonial home was at U.S.A. Separation between the two appears to have taken place some time in the year 2010. After returning to India, the second respondent herein lodged a complaint before All Women Police Station(South), Madurai City, leading to registration of Crime No.7 of 2014 for the offences under Sections 498(A), 406 and 294(b) of I.P.C. and Section 4 of the Dowry Prohibition Act.

3. The matter was investigated and final report came to be filed against the petitioners herein before the Judicial Magistrate (Additional Mahila Court), Madurai. Cognizance of the offences was taken in C.C.No.576 of 2014. To quash the same, this Criminal Original petition has been filed.

4. Heard the learned counsel on either side.



5. The first petitioner is the husband of the defacto complainant. Petitioners 2 and 3 are the father-in-law and the mother-in-law respectively.

6. A careful reading of the statements recorded under Section 161 of Cr.P.C. would clearly indicate that most of the cruelties catalogued by the defacto complainant took place in U.S.A. Throughout the period in question, the first petitioner/husband of the defacto complainant was only at U.S.A. None of the acts attributed to the first petitioner took place in India. Therefore, to try the case against the first petitioner herein would obviously require the previous sanction of the Central Government as per Section 188 of Cr.P.C. Section 188 of Cr.P.C. reads as under:-

"188. Offence committed outside India - When an offence is committed outside India -

(a) by a citizen of India, whether on the high seas or elsewhere ; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India, he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found;

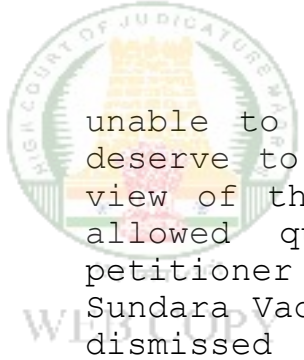
Provided that, notwithstanding anything in any of the proceeding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government."

7. Admittedly in this case no such previous sanction of the Central Government was obtained. Therefore, there is a statutory bar against taking cognizance of the offences against the first petitioner herein.

8. In this view of the matter, the impugned proceedings stand quashed as far as the first petitioner herein.

9. The learned counsel appearing for the petitioners while reiterating the contentions set out in the quash petition would point out that the impugned proceedings deserve to be quashed against the parents-in-law also. But then, as rightly pointed out by the learned counsel appearing for the defacto complainant, there are *prima facie* materials against the second petitioner Dr.Karunakaran. The statement of the defacto complainant reads that in the Panchayat held on 04.08.2013, the second petitioner had demanded that 1/4th estate of the father of the defacto complainant should be allotted as dowry for reunion. According to the learned counsel, this would clearly constitute a demand for dowry.

10. I am therefore of the view that the second petitioner will have to necessarily establish his innocence only in a regular trial. These are not the matters that can be gone into in a quash petition. But then, against the mother-in-law Sundaravadivu, I am



unable to find any material. Therefore, the impugned proceedings deserve to be quashed against the third petitioner also. In this view of the matter, this Criminal Original petition stands partly allowed quashing the impugned proceedings against the first petitioner Shanmuga Prasanna Karunakaran and the third petitioner Sundara Vadivu are concerned. This Criminal Original petition stands dismissed as far as the second petitioner Dr.Karunakaran is concerned. It is made clear that all the defences of the second petitioner are left open. His personal appearance before the Court below is dispensed with.

11. The learned trial Magistrate shall insist on the personal appearance of the 2nd petitioner only when it is absolutely necessary and imperative. The 2nd petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the 2nd petitioner can be represented through his counsel.

Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To:

1. The Judicial Magistrate(Additional Mahila Court),
Madurai.
2. The Inspector of Police,
All Women Police Station(South),
Madurai.

+1 CC to M/s.S. RAVI, Advocate (SR-90154[F] dated 27/09/2019)
+1 CC to M/s.K.P.S.PALANIVELRAJAN, Advocate (SR-90164[F]

Cr1.O.P.(MD)No.21948 of 2014
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SMA/26/12/19/3P/5C