



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.8699 of 2014

and

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

1.P.S.Shanmuga Lakshmi

2.Muruga kani ... Petitioners/Accused Nos. 2 and 3

Vs

1.The State through,
The Sub Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District. ...1st Respondent/Defacto Complainant

2.S.Vishnupriya ...2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records connected with the case in C.C.No.323 of 2013 on the file of the learned Judicial Magistrate, Srivaikundam, Thoothukudi District and quash the same as illegal.

For Petitioners : Mr.R.Alagumani

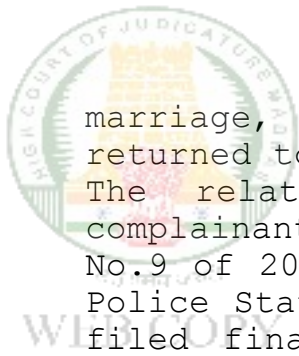
For R1 : Mr.A.Robinson
Government Advocate (Crl.side)

For R2 : Mr.S.M.Mohan Gandhi

ORDER

Heard the learned counsel appearing for the petitioners, the learned Government Advocate appearing for the respondent and the learned counsel appearing for the defacto complainant.

2. The first accused in this case is one Kanthavadivelan and the second respondent is the wife of the first accused/defacto complainant. They got married to each other in the year 1997. Post



marriage, they were in Canada for a while. Thereafter, they returned to India. Two children have been born through the wedlock. The relationship between the first accused and the defacto complainant came under strain and that led to registration of Crime No.9 of 2010 on the file of the Sub Inspector of Police, All Women Police Station, Srivaikundam. The police investigated the case and filed final report not only against the husband of the defacto complainant but also against the petitioners herein who are the sisters of the first accused. Cognizance of the offences under Sections 498(A), 406 and 506(ii) of IPC and Section 4 of Dowry Prohibition Act was taken and the case was taken up for trial in C.C.No.323 of 2013 on the file of the Judicial Magistrate, Srivaikundam. A1 has not filed any quash petition. It is only the petitioners herein who have come before this Court.

3. I went through the contents of the statements recorded under Section 161 of Cr.P.C. The only allegation against the petitioners is that on 25.10.2010, the petitioners herein came along with her brother and stood before the house of the defacto complainant and abused her and also demanded that unless a further sum of Rs.5,00,000/- was paid, they would arrange second marriage for the first accused.

4. As already pointed out, the marriage of the second respondent herein with A1 took place in the year 1997. The first petitioner herein got married much earlier and settled in Palayamkottai. Likewise, the second petitioner also is settled in Madurai. At no point of time, all the parties resided together.

5. The allegation of the second respondent against the petitioners herein is inherently improbable. This Court can very well note that in order to bring pressure of A1, the petitioners herein have also been included. The Hon'ble Supreme Court, in the decision reported in **1992 Supp(1) SCC 335 State of Haryana Vs. Bhajanlal**, held that where the allegations made in the complaint or in the FIR are so absurd and inherently improbable, that would be a ground for quashing the impugned proceedings.

6. In this view of the matter, the impugned proceedings stand quashed insofar as the petitioners are concerned.

7. The husband/A1 of-course has to necessarily face the trial. He has not moved this Court seeking relief so far. The case is of the year 2013. Therefore, even while allowing the criminal original petition, I direct the learned Judicial Magistrate, Srivaikundam, to conclude the trial on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

8. With this direction, this criminal original petition



stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P AND A)

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Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate, Srivaikundam,
Thoothukudi District.

2.The Sub Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.

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

+1 CC to M/s.S.M. MOHAN GANDHI, Advocate (SR-87308[F] dated
18/09/2019)

+1 CC to M/s.S.MALAİKANI, Advocate (SR-86809[F] dated 16/09/2019)

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KK/SAR/15.10.2019/3P-6C/