



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2019

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.5559 of 2018
and
Crl.MP(MD)No.2681 of 2018

1.Rathinambal,
Inspector of Police,
All Women Police Station,
Perambalur Town,
Perambalur District.

2.Vijaya
Inspector of Police,
All Women Police Station,
Lalgudi,
Trichy District.

... Petitioners/Respondents

Vs.

1.State through
The Inspector of Police,
Lalgudi Police Station,
Trichy.

... 1st Respondent/Complainant

2.Kavitha

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to allow the Criminal Original Petition by setting aside the Docket order dated 16.03.2018 passed in Cr.M.P.No.952 of 2018 on the file of the learned Judicial Magistrate, Lalgudi, Trichy District.

For Petitioners : Mr.S.Vinayak

For R1 : Mr.R.Anandharaj
Additional Public Prosecutor

For R2 : Mr.T.Lenin Kumar



O R D E R

This petition has been filed to set aside the Docket order passed by the learned Judicial Magistrate, Lalgudi, Trichy District in Cr.M.P.No.952 of 2018 dated 16.03.2018 thereby the private complaint lodged by the second respondent for the offences under Sections 420, 498(A), 506 (I) of IPC r/w Section 4 of Dowry Prohibition Act, 1961, has been forwarded to police under Section 156 (3) Cr.P.C., for investigation and report.

2. The learned counsel for the petitioners would submit that the petitioners are the Inspector of Police, All Women Police Stations, Perambalur and Lalgudi. The second respondent lodged a complaint against her husband and the same was registered in Crime No.4 of 2106 for the offences under Sections 420, 498(A), 506 (i) of IPC r/w Section 4 of Dowry Prohibition Act, 1961. After completion of investigation, they dropped the action on the FIR based on the report received from the Social Welfare Officer, Trichy, dated 06.04.2017. They also filed referred charge sheet before the learned Additional Mahila Court, Trichy. After serving referred charge sheet to the defacto complainant, no action was taken on the closure report. Hence, the second respondent filed a petition before the learned Judicial Magistrate, Lalgudi, Trichy, under Section 156 (3) Cr.P.C., for a direction to file final report and the same was allowed by directing the first respondent to register FIR and investigate the same and file final report as early as possible. In this circumstances, the petitioners approached this Court for quash the Docket order dated 13.03.2018 passed by the learned Judicial Magistrate, Lalgudi, Trichy.

3. The learned counsel for the second respondent would submit that the second respondent lodged a complaint against her husband and her in-laws and the same has been registered in Crime No.4 of 2016. Due to previous enmity between the petitioners and the second respondent, the petitioners closed the complaint as 'action dropped'. Therefore, she lodged a private complaint before the learned Judicial Magistrate, Lalgudi, Trichy. The learned Magistrate forwarded the said complaint under Section 156 (3) Cr.P.C., to the file of the first respondent and directed the first respondent to register FIR and investigate the same and file final report. Even then, the first respondent did not register a case as against the petitioners. Therefore, he prayed for dismissal of the quash petition.

4. The learned Additional Public Prosecutor would submit that on the private complaint lodged by the second respondent, the learned Magistrate directed the first respondent to register the case under Section 156 (3) Cr.P.C., and it is pending for enquiry.



5. Heard the learned counsel appearing for the petitioners, learned Additional Public Prosecutor appearing for the first respondent and learned counsel appearing for the second respondent.

6. It is seen that the second respondent lodged a complaint as against her husband and her in-laws on the file of the petitioner herein. On receipt of the same, the first petitioner registered the FIR in Crime No.4 of 2016 for the offences under Sections 420, 498 (A), 506 (Ii of IPC r/w Section 4 of Dowry Prohibition Act, 1961. During the pendency of the investigation, the husband and in-laws of the second respondent filed a quash petition before this Court to quash the FIR registered in Crime No.4 of 2016 in Crl.OP(MD)No.4903 of 2017 and this Court observed as follows:-

" On a conspectus of the facts obtaining in the case, tis Court is of the view that the present prosecution in Crime No.4 of 2016 has been engineered in such a way that all the family members of Ravishankar have been falsely implicated as accused. When the matter was referred to the Mediation Centre, the demand of Kavitha was that Ravishankar should set up a separate home and leave the joint family, which was not agreeable to Ravishankar. In Arnesh Kumar Vs. State of Bihar [2014 {8} Scale 250], the Hon''ble Supreme Court has noted the tendency of the wives to lodge false complaints against all the family members of husband and harass them. This case appears to be one such case. However, this Court directs the Deputy Superintendent of Police, Lalgudi Sub Division, Trichy to monitor the investigation in Lalgudi Police Station Crime No.4 of 2016 and if the allegations found therein are false, it is needless to state that the FIR against the accused shall be closed.

With the above direction, this petition is closed. Consequently, connected miscellaneous petition is closed."

7. Accordingly, on the complaint lodged by the second respondent, the District Social Welfare Officer, Trichy, conducted investigation and sent a report to the Inspector of Police, All Women Police Station, Lalgudi, Trichy, dated 06.04.2017. It is seen that, there was no dowry harassment as alleged by the second respondent. On the strength of her enquiry, the second petitioner dropped the action on the FIR registered in Crime No.4 of 2016 and the charge sheet duly served on the second respondent. On the closure report, the second respondent did not lodge any private complaint or private notice as against her husband and family members. She lodged a complaint as against the petitioners alleging that they colluded with the accused persons, without considering the



allegations, simply dropped the action on the FIR registered in Crime No.4 of 2016. The learned Judicial Magistrate, Lalgudi, Trichy, without recording any submission, mechanically directed the first respondent to register FIR on the complaint lodged by the second respondent.

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8. On perusal of the records reveals that this Court, already directed the second petitioner to conduct investigation in Crime No. 4 of 2016. Accordingly, the second petitioner conducted investigation and closed the case as 'action dropped'. Closing of FIR is not at all an offence under any penal provision. Therefore, the reference under Section 156 (3) Cr.P.C., is not maintainable one. The learned Magistrate has to apply his mind before referring the complaint under Section 156 (3) Cr.P.C., The order, impugned in the present case, the learned Magistrate without considering the absence of the defacto complainant, mechanically forwarded the complaint to the Inspector of Police, Lalgudi, under Section 156 (3) Cr.P.C., cannot be sustained. Further, it is liable to be set aside.

9. Accordingly, the Docket order dated 16.03.2018 passed in Cr.M.P.No.952 of 2018 on the file of the learned Judicial Magistrate, Lalgudi, Trichy District is hereby set aside and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

dss

To

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

+1 CC to M/s.T. LENIN KUMAR, Advocate (SR-97598[F] dated 12/11/2019
+1 CC to M/s.A. JOEL PAUL ANTONY, Advocate (SR-97975[F] dated
13/11/2019)

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