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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP (MD) No.1652 of 2015

and

MP (MD) Nos.1 and 2 of 2015

1.P.Suresh Kumar

2.Chelladurai

3.Muthu Kumar

4.S.Latchanakumar

5.Rajeshwari @ Diraviam

6.I.Ramesh Kumar

7.S.Paul Raj @ Aranganathan

... Petitioners

Vs.

1.The Superintendent of Police,
Theni, Theni District.

2.The Inspector of Police,
All Women Police Station,
Bodinayakanur, Theni District.

3.Murugeshwari @ Elizabeth Rani

... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the C.C No.212 of 2014 on the file of the District Munsif cum Judicial Magistrate Court, Bodinayakkanur, Theni District and quash the proceedings.

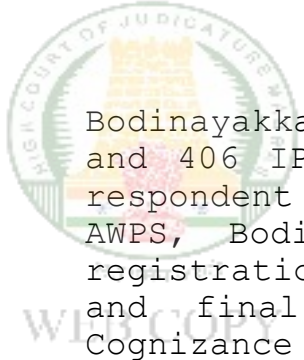
For Petitioner : Mr.V.S.Balamurugan

For Respondents : Mr.A.Robinson,
Government Advocate
(crl.side) for R1 & R2

Mr.P.Muthu Vijayapandian for R3

ORDER

The petitioners are facing trial in C.C No.212 of 2014 on the file of the District Munsif cum Judicial Magistrate Court,



Bodinayakkanur, Theni District for the offences under Sections 498 A and 406 IPC and Section 4 of Dowry Prohibition Act. The third respondent is the defacto complainant. She lodged information with AWPS, Bodinayakkanur Police Station, Theni District leading to registration of Crime No.7 of 2014. Investigation was undertaken and final report was filed against the petitioners herein. Cognizance of the offences was taken in C.C No.212 of 2014 on the file of the District Munsif cum Judicial Magistrate Court, Bodinayakkanur. To quash the same, this O.P has been filed.

2. Heard the learned counsel on either side.

3. From the materials on record, it is beyond dispute that the first petitioner namely P.Suresh Kumar lodged information with Tiruppur North Police Station on 17.03.2014 leading to registration of Crime No.367 of 2014. The core allegation made by him is that his wife was missing along with his son. The third respondent and the son were secured on 30.05.2014. The third respondent gave a statement before the Inspector of Police, North Police Station, Tiruppur mentioning that she is not interested in living with P.Suresh Kumar and she wanted to go with her parents.

4. It is submitted by the counsel on either side that the child in question is with the first petitioner and not with the mother. He caused to issue legal notice on 17.05.2014. He also filed IDOP No.9 of 2014 before the District Court, Theni for dissolution of his marriage with the third respondent herein. The first petitioner had specifically alleged that the third respondent had developed illicit intimacy with someone and ran away with him in March 2014 and that is why he caused registration of Crime No.367 of 2014 on 17.03.2014 before the Tiruppur North Police Station. On coming to know about the same, the third respondent chose to appear before the AWPS, Bodinayakkanur and gave the present complaint on 16.09.2014.

5. It is obvious that the impugned prosecution has been initiated by the third respondent in order to wreak vengeance on the first petitioner for having filed divorce O.P against her. The Hon'ble Supreme Court in the decision reported in **1992 Supp (1) SCC 335 (State of Haryana vs. Bhajan Lal)** held that a complaint can be quashed where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

6. Applying the aforesaid parameter laid down by the Hon'ble Supreme Court, the impugned prosecution will have to be quashed. It is seen that the case has been filed not only against the first petitioner and also the other relatives. It is obvious that the aim of the third respondent is to embarrass the entire family of the first petitioner herein. The continuation of the impugned prosecution can only be termed as an abuse of legal process. The impugned prosecution stands quashed as a whole.



7. This criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

Skm

To

1. The Superintendent of Police,
Theni, Theni District.

2. The Inspector of Police,
All Women Police Station,
Bodinayakanur, Theni District.

3. The District Munsif cum Judicial Magistrate Court,
Bodinayakanur, Theni District.

+1 CC to M/s.V.S. BALAMURUGAN, Advocate (SR-88024[F] dated
20/09/2019)

+1 CC to M/s.P.MUTHU VIJAYA PANDIAN, Advocate (SR-88120[F] dated
20/09/2019)

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VB(04.11.2019) 3P 6C