



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

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

WEB COPY

Crl.O.P.(MD)No.19354 of 2018

and

Crl.M.P.(MD)No.8750 of 2018

1.Elavarasan
2.Thirumoorthi
3.Annamayil

... Petitioner/Accused

-Vs-

1.The Inspector of Police,
All Women Police Station,
Tirumangalam,
Madurai District,
Crime No.73 / 2015.

... 1st Respondent/Complainant

2.Mariyammal ... 2nd Respondent/Defendant Complainant
Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records comprised in C.C.No. 46 of 2018, on the file of the learned Judicial Magistrate, Tirumangalam, and to quash the same as devoid of merits.

For Petitioner : Mr.A.Haja Mohideen

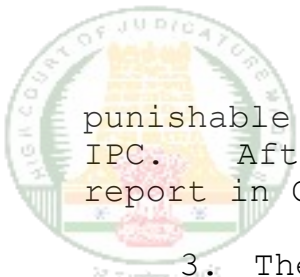
For R1 : Mr.R.Suyambulinga Bharathi
Government Advocate (Crl.Side)

For R2 : No Appearance

O R D E R

This Criminal Original Petition has been filed, challenging the proceedings in C.C.No. 46 of 2018, on the file of the learned Judicial Magistrate, Tirumangalam.

2. The learned counsel for the petitioner would submit that the second respondent lodged a complaint before the respondent police alleging that the petitioners have sold her entire jewels and the first accused without going to any job, abused and torture her. Further, all the accused have demanded dowry from the defacto complainant and also criminally intimidated her, to give the jewels. Hence, the defacto complainant lodged a complaint against the petitioners. Based on the receipt of the complaint, the first respondent registered a case in Crime No.73 / 2015 for the



punishable offence under Sections 498 (A), 406, 294 (b), 506 (i) of IPC. After completing the investigation, they filed the final report in C.C.No. 46 of 2018.

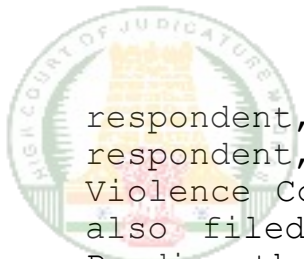
3. The learned counsel for the petitioner further submitted that the second respondent also filed a maintenance case in M.C.No.15/2015 before the learned Judicial Magistrate Court, Tirumangalam. Further, she also initiated the proceedings under the Domestic Violence Act in D.V.O.P.No.3 of 2016 before the same Magistrate Court. Further, the first petitioner also filed a petition for restitution of conjugal right in H.M.O.P.No.100/2015 before the learned Sub-Ordinate Judge, Aruppukottai. Pendency of these proceedings, the petitioners and the second respondent entered into compromise and filed a joint compromise memo on 24.04.2017 in the proceedings of Domestic Violence complaint as well as the Maintenance Case on the file of the learned Judicial Magistrate, Tirumangalam. Based on the joint compromise memo, both the above said petitions in M.C.No.15 / 2015 and D.V.O.P.No.3 / 2016 on the file of the learned Judicial Magistrate, Tirumangalam were closed. He also submitted that the divorce petition also allowed on 27.04.2017 infavour of the first petitioner based on the compromise memo in H.M.O.P.No.472 / 2017 on 27.04.2017. Therefore, the entire matter has been settled between them. The second respondent have no objection to quash the proceedings in C.C.No.46 / 2018. Therefore, he prayed for quash the entire proceedings in C.C.No.46 / 2018.

4. Per contra, the learned Government Advocate (Crl.Side) would submit that on the complaint lodged by the second respondent, the case has been registered in Crime No.73 / 2015. for the offence under Sections 498 (A), 406, 294 (b), 506 (i) of IPC against the petitioners. After the completion of investigation, the respondent police filed a final report and the same was taken cognizance in C.C.No.46 / 2018 on the file of the learned Judicial Magistrate, Tirumangalam. There are totally three accused. All the petitioners arrayed as accused Nos.1 to 3. The case is pending for trial and the matter is posted for appearance of the petitioners. He further submitted that based on the joint compromise memo, the maintenance case as well as the divorce petition were closed.

5. Though, the notice was served to the second respondent none appeared on behalf of the second respondent by person or through counsel.

6. Heard Mr.A.Haja Mohideen, learned counsel for the petitioners and Mr.R.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the first respondent.

7. The petitioners are arrayed as A1 to A3. The first petitioner is the husband. The second and third petitioners are in-laws of the second respondent herein. After marriage, since there



respondent, they are living separately. Thereafter, the second respondent, filed a maintenance case as well as the Domestic Violence Complaint as against the petitioners. The first petitioner also filed a divorce petition as against the second respondent. Pending those proceedings, the petitioners and the second respondent entered into a compromise and filed a joint compromise memo on 24.04.2017 and the same was recorded. Accordingly, all the proceedings were closed. In respect of the divorce petition, based on the joint compromise memo, divorce has been granted in favour of the first respondent herein. Though, there is no sub clause in the joint compromise memo with regard to withdrawal of the criminal case pending as against the petitioners, in view of the joint compromise memo, the maintenance case, domestic violence complaint and the divorce petition were disposed of. Therefore, the pendency of the present criminal proceedings as against the petitioners would not serve any purpose. Since, the second respondent does not want to proceed against the petitioners in the present proceedings. As such, the petitioners need not go for ordeal of the trial and the entire proceeding are clear abuse of process of law.

8. In view of the above observations, this Criminal Original petition is allowed. The proceedings in C.C.No. 46 of 2018, on the file of the learned Judicial Magistrate, Tirumangalam, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

dss

To

- 1.THE LEARNED JUDICIAL MAGISTRATE,
TIRUMANGALAM.
- 2.THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (2 COPIES)
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-90007[F] dated
27/09/2019)

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and
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26.09.2019

JM/17.10.2019/3P/6C

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