



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) No.10634 of 2017

and

Crl.M.P. (MD) Nos.7293 of 2017 & 8871 of 2019

Rajamohamed

... Petitioner/ Accused

Vs.

1) The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai District.
[Ref.Cr.No.1/2017]

... 1st Respondent/
Complainant

2) Syed Fathima

... 2nd Respondent/
De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in Cr.No.1/2017 on the file of the 1st respondent (i.e.) the Inspector of Police, All Women Police Station, Thirupparankundram, Madurai District and quash the same and all further proceedings as against this petitioner.

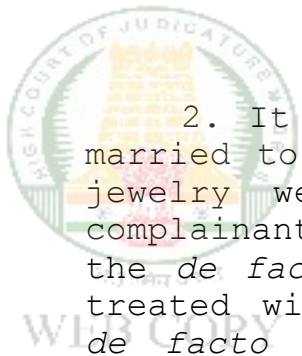
For Petitioner: Mr.D.Shanmugaraja Sethupathi

For R-1 : Mr.M.Chandrasekaran,
Additional Public Prosecutor

For R-2 : Mr.R.Ramanathan
For Mr.R.Aravindan

O R D E R

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Cr.No.1 of 2017 pending on the file of the first respondent.



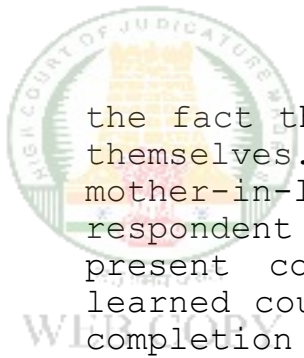
2. It is seen from the records that the second respondent was married to A-1 in the year 2010 and at the time of marriage, gold jewelry were given as Sreedhana properties and the *de facto* complainant was living with A-1 at Hosur. It is the further case of the *de facto* complainant that she was harassed and humiliated and treated with cruelty and also there was a demand for dowry. The *de facto* complainant had earlier given a complaint before the respondent Police Station with similar allegations and an F.I.R. came to be registered in Crime No.57 of 2014. The F.I.R. was investigated and in the meanwhile, there was a compromise between the parties and it is alleged by the second respondent that her husband and mother-in-law promised that she will be taken back to the matrimonial home.

3. Believing their words, the complaint was withdrawn and a closure report was also filed. The husband and the mother-in-law went back on their words and therefore, a fresh complaint has been given before the respondent police. The petitioner, who is the husband of the sister-in-law of the second respondent has been added as A-3 in the F.I.R.

4. The learned counsel for the petitioner submitted that this petitioner was working in police force and he was living at Madurai. The *de facto* complainant and her family were living at Hosur. This petitioner had nothing to do with the matrimonial dispute between the parties. The learned counsel further submitted that when the earlier F.I.R. was registered in Crime No.57 of 2014, the petitioner had filed a quash petition before this Court in Crl.O.P.(MD) No.14651 of 2015 and when the matter came up for hearing, it was reported that 'action has been dropped' and recording the same, the said Criminal Original Petition was closed. The learned counsel submitted that the second complaint on the same allegation is not maintainable and in any case, no offence has been made out against the petitioner.

5. The learned counsel appearing on behalf of the second respondent submitted that there are specific allegations made against the petitioner in the complaint. The learned counsel further submitted that the petitioner was using his influence in the police and was harassing the second respondent and therefore, the investigation has to continue even as against the petitioner. He submitted that there are no grounds to quash the F.I.R.

6. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the earlier complaint that was given by the second respondent was not closed after investigation. He submitted that the complaint was closed in view of



the fact that the parties had already compromised the dispute among themselves. The learned counsel submitted that the husband and the mother-in-law went back on their words and mislead the second respondent to withdraw her earlier complaint and therefore, the present complaint cannot be called as a second complaint. The learned counsel submitted that some time limit can be fixed for the completion of the investigation in this case.

7. This Court has carefully considered the submissions made on the either side and the materials available on record.

8. The primary contention that has been raised by the learned counsel for the petitioner is that the present F.I.R. was as a result of the second complaint given by the *de facto* complainant and therefore, the same is not maintainable. The Hon'ble Supreme Court has settled the law on this issue. The Hon'ble Supreme Court has held that, where an earlier complaint was not closed on merits, the second complaint is maintainable on the same cause of action. In the present case, the earlier complaint came to be closed only on the ground that the matter has been compromised between the parties and A-1 and A-2 had agreed to take the second respondent back to the matrimonial home. Therefore, in the considered view of this Court, the present complaint is maintainable and the F.I.R. cannot be quashed on the ground that has been raised by the learned counsel for the petitioner.

9. The next contention that has been put forth before this Court is that the petitioner had nothing to do with the matrimonial dispute between the parties. The petitioner is working in police force and he is seated at Madurai. Admittedly, the *de facto* complainant was living with A-1 at Hosur. The problem started between the parties even as early as in the year 2012. Except for some general allegations that have been made against the petitioner, no specific allegations have been put forth against him and in any case, the petitioner who is only the husband of the sister-in-law of the *de facto* complainant cannot be roped in this case. No offense has been made out against the petitioner. The continuation of the prosecution as against the petitioner is an abuse of process of law and the same requires interference of this Court.

10. In the result, the F.I.R. in Crime No.1 of 2017, pending on the file of the 1st respondent police is hereby quashed insofar as the petitioner is concerned. The respondent police is directed to continue with the investigation as against the other accused persons and complete the investigation within a period of three(3) months and file a final report or a closure report, as the case may be, before the competent Court.



11. Accordingly, this Criminal Original Petition is allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai District.

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

+1 CC to M/s.R. ARAVINDAN, Advocate (SR-100008[F] dated
21/11/2019)

+1 CC to M/s.D. SHANMUGARAJA SETHUPATHI, Advocate (SR-100165[F]
dated 21/11/2019)

Order made in
Crl.O.P. (MD) No.10634 of 2017

Dated: 20.11.2019

JMN(06.01.2020) 4P : 5C