



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **21.11.2019**

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P.[MD].No.12133 of 2017
and
Crl.M.P.[MD]No.8396 of 2017

WEB COPY

1.Balamurugan
2.Pandi
3.Pandiyammal
4.Selvi
5.Nagaraj

: Petitioners

Vs.

1.The Inspector of Police,
All Women Police Station,
Melur Taluk,
Madurai District.
Crime No.29 of 2017

2.Murugeshwari

: Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records and quash the proceedings in Crime No.29 of 2017, on the file of the respondent police.

For Petitioners : Mr.RM.Arun Swaminathan

For R-1 : Mr.K.Dinesh Babu

Additional Public Prosecutor

For R-2 : No Appearance

ORDER

This criminal original petition has been filed seeking to quash the First Information Report in Crime No.29 of 2017, pending investigation before the first respondent police.

2.The second respondent has given a complaint on the ground that she married the first petitioner and after marriage, the first petitioner and his family members committed cruelty and had sent her out of the matrimonial home and when she questioned the same, she was threatened.

3.The first petitioner is claimed to be the husband, the second petitioner is claimed to be the father-in-law, the third petitioner is claimed to be the mother-in-law, the fourth petitioner is claimed to be the sister-in-law and the fifth petitioner is the neighbour of the other petitioners.



4.The learned counsel for the petitioners submitted that admittedly, the second respondent is married to one Ananth and she had matrimonial dispute even with the said Ananth and she had given a similar complaint before the All Women Police Station at Thiruppathur against Ananth and an FIR was also registered in Crime No.4 of 2010. The learned counsel submitted that there is no relationship of husband and wife between the second respondent and the first petitioner and therefore, the respondent police ought not to have even registered an FIR for an offence under Section 498-A of IPC.

5.The learned counsel submitted that all the family members have been roped in the crime as accused only with a view to harass the petitioners and therefore, the First Information Report requires the inference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

6.There is no appearance for the second respondent.

7.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the First Information Report has been registered based on the allegations made in the complaint and there was no investigation in this case, in view of the stay granted by this Court.

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

9.It is seen from the records that there is absolutely no proof to show that the second respondent is the wife of the first petitioner. In fact, she states in the complaint itself that there is no proof for the marriage and not even a photograph of the marriage is available. It is an admitted case that the first petitioner is already married to one Stella and there are three children out of the said marriage. It is seen that the second respondent has given a similar complaint against her husband Ananth on an earlier occasion.

10.The offence under Section 498-A of IPC will not get attracted, if there is no husband and wife relationship between the first petitioner and the second respondent.

11.In view of the above, this Court is of the view that unless there is a husband and wife relationship between the parties, the offence under Section 498-A of IPC cannot be made out. If the offences under Section 498-A of IPC is not made out against the first petitioner, the family members of A-1 cannot be unnecessarily roped in the case.



12.This Court finds that the entire criminal prosecution is an abuse of process of law and the same requires the interference of this Court.

13.In the result, the First Information Report in Crime No.29 of 2017, pending investigation on the file of the first respondent police is hereby quashed and accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

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To

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

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

+1 CC to M/s.CHITTINAD LEGAL SOLUTIONS, Advocate (SR-100493[F]
dated 22/11/2019)

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MK (12.12.2019) 3P 4C