



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :26.09.2019
CORAM:
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WEB COPY

Crl.O.P. (MD) No. 2970 of 2017
and
Crl.M.P. (MD) .No.2264 of 2017

1.N.Ganesan
2.Sri Lakshmi Devi
3.S.Balaji

... Petitioners/Accused 4 to 6
Vs.

1. State rep. by
The Inspector of Police,
All Women Police Station,
Thiruppathur, Sivagangai District.
(Crime No.01 of 2017) ...1stRespondent/Complainant

2.Vivetha ...2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the First Information Report in Crime No.01 of 2017, on the file of the Inspector of Police, All Women Police Station, Thiruppathur, Sivagangai District as against the petitioners herein.

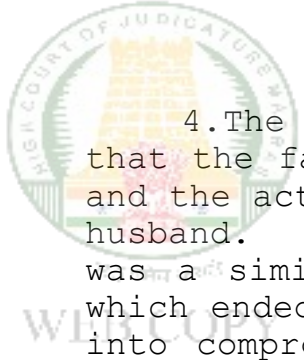
For Petitioners : Mr.A.Thiruvadi Kumar
For R1 : Mr.M.Chandrasekaran
Additional Public Prosecutor
For R2 : Mr.D.Venkatesh

ORDER

This Criminal Original Petition has been filed seeking to quash the First Information Report pending investigation in Crime No.1 of 2017, on the file of the first respondent Police.

2.Based on the complaint given by the second respondent, the first respondent Police have registered the First Information Report against six accused persons in Crime No.1 of 2017, for the offences under Sections 498(A), 406 and 506 (1) of the Indian Penal Code, Section 4 of the Dowry Prohibition Act, 1961 and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

3.The petitioners herein are ranked as Accused Nos.4 to 6 in the First Information Report. They are maternal uncle, his wife and the brother of the second respondent's husband.



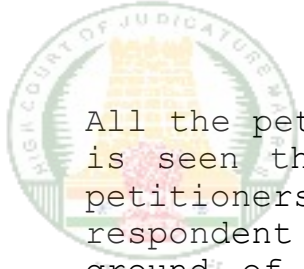
4.The learned counsel appearing for the petitioners submitted that the family members have been un-necessarily roped in this case and the actual dispute is only between the second respondent and her husband. The learned counsel further submitted that earlier there was a similar complaint that was given by the second respondent, which ended in compromise on 26.02.2016 and the parties also entered into compromise and a compromise agreement was also signed by the parties. Subsequent to the compromise, since the husband had gone back abroad leaving behind the second respondent, another complaint came to be given before the first respondent Police. The learned counsel further submitted that the present complaint has been given only to wreck vengeance against the petitioners, since the earlier compromise did not go through.

5.The learned counsel appearing on behalf of the second respondent submitted that the marriage took place on 02.03.2015 and sufficient money and jewels were provided at the time of marriage. Initially, the second respondent was living in a joint family. Her husband went abroad for work and at that point of time, the father-in-law, mother-in-law and the petitioners had pressurised the second respondent to bring Rs.2,00,000/- and jewels as dowry. The second respondent was also beaten by the above said persons and threatened by them. Subsequently, the second respondent gave birth to a child. A complaint was given before the All Women Police Station, Trichy, on 06.02.2016 and the parties were called for enquiry and her husband had given an undertaking that he will take care of the second respondent and will not cause any cruelty to her. However, contrary to the promise, the husband left behind the second respondent and the child and went abroad. Even thereafter, the petitioners are threatening the second respondent. The learned counsel further submitted that sufficient allegations have been made in the complaint and the respondent Police must be directed to continue further with the investigation and this Court should not interfere with the investigation at this stage.

6.The learned Additional Public Prosecutor appearing on behalf of the first respondent Police submitted that the matter was referred to the Welfare Committee for enquiry. The Welfare Committee has also submitted a report on 18.05.2017 to the effect that there is a matrimonial dispute between the husband and the second respondent and the second respondent wants to join with her husband. The Protection Officer of the Welfare Committee did not find any materials to substantiate the allegations that have been made against the petitioner.

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

8.It is clear from the above submissions that there is a matrimonial dispute between the second respondent and her husband. <https://hcservices.ecourts.gov.in/hcservices/> he has left behind the second respondent and gone abroad to work. There is a small child who is taken care by the second respondent.



All the petitioners are residing at Chennai. From the complaint, it is seen that some general allegations have been made against the petitioners and the earlier complaint that was given by the second respondent to the first respondent Police came to be closed on the ground of compromise between the parties on 26.02.2016. In the present complaint, there is no fresh cause of action that has been shown against the petitioners except general and vague allegations to the effect that the petitioners are threatening the second respondent.

9.The second respondent out of desperation to live with her husband is roping in all the family members into the dispute. The maternal uncle, his wife and the brother are residing in Chennai and they cannot force the husband of the second respondent to live with her.

10.In any event, the allegations made in the First Information Report and the subsequent report given by the Welfare Committee does not reflect any cruelty committed on the part of petitioners. The continuation of the investigation as against the petitioners will amount to abuse of process of law. In the result, the First Information Report in Crime No.01 of 2017, on the file of the first respondent is quashed insofar as the petitioners are concerned. The first respondent is directed to continue with the investigation insofar as other accused persons are concerned and file a final report before the concerned Court within a period of two months from the date of receipt of a copy of this order.

11.This Criminal Original Petition is allowed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
All Women Police Station,
Thirupathur, Sivagangai District.

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

+1 CC to M/s.D.VENKATESH, Advocate (SR-90014[F] dated 27/09/2019)
+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-89958[F] dated 27/09/2019)

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