



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) .No.3016 of 2017

and

Crl.M.P. (MD) Nos.2308 and 9791 of 2017

- 1) Balamurugan @ Gunasekaran
- 2) Kanthasamy Gounder
- 3) Pavunthai
- 4) Poongudi
- 5) Singapandi
- 6) Vadivel
- 7) Mahalakshmi

... Petitioners/A1 to A7

Vs.

- 1) State represented by its  
Inspector of Police,  
All Women Police Station,  
Andipatti, Theni District.  
(Crime No.02 of 2017)

..Respondent/Complainant

- 2) Pachaiyammal

... Respondent/Defacto Complainant

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the First Information Report in Crime No.02 of 2017, on the file of the first respondent Police and quash the same.

For Petitioners : Mr.M.Subash Babu

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

For R-2 : Mr.R.Manoharan

### O R D E R

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.02 of 2017, pending investigation on the file of the first respondent police.

2. The second respondent has given a complaint before the first respondent and based on the same, an F.I.R came to be



registered in Crime No.26 of 2016 against the petitioners for the offense under Sections 498(A) 406, 323, 294(b), 341, 506(i) of I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

3. The first petitioner is the husband and the second petitioner father-in-law, third petitioner is the mother-in-law, fourth petitioner is the sister-in-law, fifth petitioner is the husband of the sister-in-law and sixth petitioner is the brother-in-law and the seventh petitioner is the wife of the brother-in-law.

4. The learned counsel for the petitioner submitted that the second respondent had an illegal relationship with one Kannan and she also eloped with him along with her children in the year 2014 resulting in a complaint given before the Andipatti Police Station and under 'women and child missing' F.I.R. was registered in Crime No.124 of 2014. Even thereafter, the second respondent continued with the illegal relationship and therefore, a H.M.O.P. is filed seeking for divorce. In the meantime, the second respondent also filed a domestic violence complaint. An enquiry was conducted by the Protection Officer in which one of the child specifically stated that the second respondent is having relationship with another person and that the second respondent insisted the child to call the unknown person as father.

5. The learned counsel submitted that the second respondent in order to cover up the entire legal case, has preferred a false complaint before the respondent police against the entire family and that the complaint is an abuse of process of law.

6. The learned counsel appearing for the second respondent submitted that there were sufficient allegations that have been made against all the accused persons. He further submitted that a false allegation has been made against the second respondent and the second respondent has not even been allowed to see her children, who are in the custody of the husband. The learned counsel submitted that the respondent police must be allowed to continue with the investigation and this Court should not interfere with the investigation at this stage.

7. The learned Additional Public Prosecutor appearing on behalf of the first respondent submitted that, initially, this Court had referred the parties for Mediation. However, the Mediation failed. He further submitted that since there was a stay of investigation, the respondent police did not proceed further with the investigation and therefore, he also prayed this Court to fix some time limit for completion of investigation.



8. This Court carefully considered the submission made on either side and the materials available on record.

9. The second respondent in the complaint has spoken about the incidents which took place in the year 2003, regarding her marriage and the Sreedhana properties provided to the second respondent by her family and according to her, the sreedhana property has been taken away by the petitioner. It is also seen from the complaint that, the husband always used to doubt the character of the second respondent. Therefore, he was treating the second respondent with cruelty. This act of the husband was supported by other family members. Ultimately, on 12.05.2016, the second respondent was driven away from the matrimonial home and the family members of the first petitioner are standing in the way of the second respondent and preventing her to live with her husband.

10. It is seen from the complaint that there are very specific allegations that have been made against the husband. The defense that has been raised by the learned counsel for the petitioner need not be gone into by this Court at this stage and it is something for the respondent police to take into consideration at the time of conducting the investigation. This Court exercising its jurisdiction under Article 482 of Cr.P.C. cannot conduct a mini investigation.

11. The entire family members are roped in like in any other complaint given under Section 498(A) of I.P.C. While giving such complaints, the F.I.R. gets challenged before the High Court and this Court also grants stay and thereby, the entire investigation comes to a standstill. Therefore, such complaints does not inure to the benefit of the wife. In most of the cases, the allegations are almost similar, when it comes to the in-laws and other members of the family.

12. In the present case, except for general allegations that have been made against the in-laws and other family members, there are no specific allegations in order to make them undergo the investigation conducted by the first respondent police.

13. The continuation of investigation, insofar as petitioners 2 to 7 are concerned, is an abuse of process of law and the investigation can now confine itself to the first petitioner, who is the husband.

14. In the result, the F.I.R. in Crime No.02 of 2017 pending on the file of the first respondent police is hereby quashed insofar as A2 to A7 are concerned and the investigation shall continue only insofar as A1 is concerned and the respondent police



is directed to complete the investigation, insofar as A1 is concerned, within a period of three(3) months from the date of receipt of a copy of this order and file a final report or a closure report, as the case may be, before the concerned Court.

15. Accordingly, the Criminal Original Petition is Allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,  
All Women Police Station,  
Andipatti, Theni District.

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

+1 CC to M/s.R.MANOCHARAN, Advocate ( SR-89758[F] dated 26/09/2019 )

+1 CC to M/s.M.SUBASH BABU, Advocate ( SR-90078[F] dated 27/09/2019 )

Order made in  
**Crl.O.P. (MD) .No.3016 of 2017**

Dated:  
**26.09.2019**

KM/(04.11.2019) 4P 5C