



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) .No.5087 of 2017

and

Crl.M.P. (MD) Nos.3600 & 3601 of 2017 and 8720 of 2019

- 1) Ayyasamy
- 2) Pandi
- 3) Kannan
- 4) Suresh babu
- 5) Balamurugan
- 6) Vinoth ... Petitioners/Accused 2-7
- 7) Charles Ponniah
- 8) Ravikumar
- 9) Pandian ... Petitioners/Accused 8-10

vs.

- 1) The State rep. by Inspector of Police,
All Women Police Station,
Thirupparamkundram, Madurai. ... 1st Respondent/Complainant
- 2) Jeyalakshmi ... 2nd Respondent/De facto
Complainant

*(*Amendment of prayer as per order of this Court made in Cr.M.P. (MD) No.10006/2017 in Crl.O.P. (MD) No.5087 of 2017 dated 07.11.2017)*

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records relating to the impugned charge sheet in S.C.No.215 of 2017 on the file of Additional District and Sessions Judge, Madurai and quash the same.

For Petitioner : Mr.R.Ilayaraja
For R-1 : Mr.S.Chandrasekar,
Additional Public Prosecutor
For R-2 : Mr.K.M.Karunakaran



O R D E R

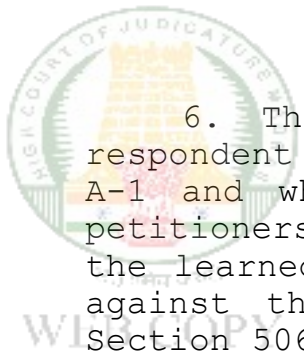
This Criminal Original Petition has been filed challenging the proceedings pending before the learned Additional District and Sessions Judge, Mahila Court, Madurai in S.C.No.215 of 2017.

2. The second respondent gave a complaint to the first respondent police to the effect that one Ramasamy (A1) had appointed the second respondent in his house to take care of his ailing wife. The second respondent was staying in the first floor of the said house. At that point of time, the said Ramasamy and the second respondent developed a relationship and it is stated that the said Ramasamy, by giving false promises, started having regular physical intercourse with the second respondent. Ultimately, the second respondent became pregnant and she also delivered a girl baby. She has alleged that the said Ramasamy and his family members did not allow the second respondent to stay in the house and she was driven out of the house. The petitioners have been arrayed as A-2 to A-10.

3. An F.I.R. was registered based on the complaint in Crime No.8 of 2014 and after the completion of the investigation, a final report has been filed before the Court below and the same has been taken cognizance for the offence under Sections 376 and 506(i) of IPC. Insofar as the petitioners(A2-A10) are concerned, the final report has been taken cognizance for the offence under Section 506 (i) of IPC.

4. The learned counsel for the petitioners submitted that the criminal proceedings as against the petitioners is an abuse of process of Court. The learned counsel submitted that, admittedly, the second respondent was leading an immoral life with Ramasamy (A-1) and these petitioners had nothing to do with the said relationship. The learned counsel submitted that these petitioners, who are the relatives of the said Ramasamy (A-1) have been falsely implicated in this case only to harass them. Therefore, the learned counsel submitted that the proceedings insofar as the petitioners are concerned has to be interfered by this Court.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the second respondent developed a relationship with A-1 and as a result of the same, A-1 gave false promises and was regularly having physical intercourse with the second respondent. The learned counsel submitted that the second respondent became pregnant and she also delivered a female child and the D.N.A. test confirmed the fact that the child was born to the second respondent through A-1. The learned counsel submitted that the petitioners have been made as accused in this case on the ground that they threatened the second respondent and did not allow the second respondent to live in the house along with A-1.



6. The learned counsel appearing on behalf of the second respondent submitted that the second respondent has been cheated by A-1 and when this was questioned by the second respondent, the petitioners have threatened her with dire consequences. Therefore, the learned counsel submitted that there are *prima facie* materials against the petitioners to prosecute them for an offence under Section 506(i) of IPC.

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

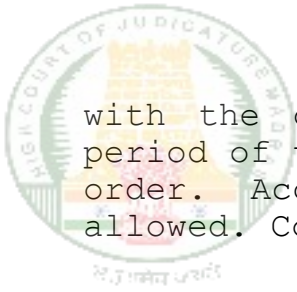
8. It is an admitted case that the second respondent developed a relationship with A-1 and she used to stay in the house of A-1. A-1 is said to have given false promises to the *de facto* complainant and was regularly having physical intercourse with her. A child was also born and the D.N.A. test confirms the fact that the child was born to the second respondent through A-1.

9. The allegation that has been made against the petitioners is that they are the relatives of A-1 and they have threatened the *de facto* complainant and did not allow the *de facto* complainant to live with A-1.

10. The allegation that has been made against the petitioners is *prima facie* not true. The *de facto* complainant, who was examined by the Investigation Officer had given a further statement which was recorded under Section 161(3) of Cr.P.C. wherein she had stated that she continues to live in the house of Ramasamy and for some time, she had gone to Bangalore for her studies. If the *de facto* complainant continues to live with A-1 and accommodated in the house belonging to A-1, it is not known as to how the prosecution is going to sustain the charge of criminal intimidation against the petitioners. The allegations against the petitioners is that they threatened the *de facto* complainant and did not allow her to live with A-1. This allegation has now been falsified by the very statement that was given by the *de facto* complainant. Even otherwise, the entire material that has been collected by the prosecution does not make out an offence of criminal intimidation against the petitioners since it does not satisfy the requirements of Section 503 of I.P.C.

11. The continuation of the proceedings as against the petitioners is an abuse of process of Court and it requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

12. In the result, the proceedings in S.C.No.215 of 2017 pending on the file of Additional District and Sessions Judge, Mahila Court, Madurai is hereby quashed insofar as the petitioners are concerned and the Court below is directed to proceed further



with the case against A-1 and complete the proceedings within a period of three(3) months from the date of receipt of a copy of this order. Accordingly, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

- 1) The Additional District and Sessions Judge,
Mahila Court, Madurai.
- 2) The Inspector of Police,
All Women Police Station,
Thirupparamkundram, Madurai
- 3) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-100729[F] dated 22/11/2019)

+1 CC to M/s.R. ILAYARAJA, Advocate (SR-100957[F] dated 25/11/2019)

STS

TE : 03/01/2020 : 4P/6C

Order made in
Crl.O.P.(MD).No.5087 of 2017 and
Crl.M.P.(MD) Nos.3600 & 3601 of 2017
and 8720 of 2019
22.11.2019