



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD).No.18520 of 2019

and

Crl.M.P.(MD).Nos.10869 and 10871 of 2019

1.Kanchithalaivan

2.Muniyammal

3.Tamilselvi

... Petitioners

Vs.

1.The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.
(Crime No.26 of 2018).

2.Kausalya

... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in C.C.No.106 of 2019 pending on the file of the Judicial Magistrate No.2, Srivilliputhur and quash the same.

For Petitioners : Mr.G.Karuppasamy Pandiyan

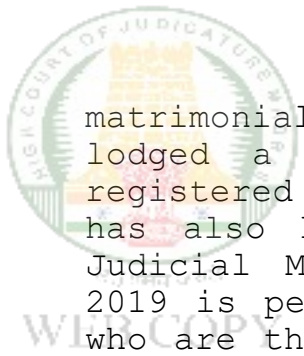
For 1stRespondent : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.106 of 2019 pending on the file of the learned Judicial Magistrate No.2, Srivilliputhur.

2.The first petitioner is the husband of the second respondent and the other petitioners are in-laws of the second respondent and the marriage between first petitioner/**Kanchithalaivan** and the second respondent Viz.,**Kausalya** was solemnized on **27.08.2015**. Thereafter, due to matrimonial disputes the second respondent and the first petitioner were living separately from the



matrimonial home. Under this circumstance, the second respondent lodged a complaint against the petitioners and the same was registered in Crime No.26 of 2018, on 04.12.2018 and charge sheet has also been filed in C.C.No.106 of 2019 on the file of the Judicial Magistrate No.2, Srivilliputhur. The said C.C.No.106 of 2019 is pending for trial. At this stage, the petitioners herein who are the husband and in-laws of the second respondent pray to quash the proceedings in C.C.No.106 of 2019.

3.Heard Mr.G.Karuppasamy Pandiyan, learned counsel for the petitioners and Mr.S.Chandrasekar, learned Additional Public Prosecutor for the first respondent.

4.The learned Additional Public Prosecutor submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioners have to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced and hence, he prayed for dismissal of the petition.

5.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

6.At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

7.Accepting the said submission, the presence of the petitioners 2 and 3 before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

8.The petitioners 2 and 3 are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners 2 and 3 shall not dispute the identity of the witnesses. The petitioners 2 and 3 shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners 2 and 3 adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in **2001 (4) SCC 667**.



9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Vsg

To:

1. The Judicial Magistrate No.2,
Srivilliputhur.

2. The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.

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

+1 CC to Mr.G.KARUPPASAMY PANDIAN, Advocate (SR-104740[F] dated
12/12/2019)

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and

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MK (21.01.2020) 3P 5C