

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.28317 of 2012

1.M.B.Muthuraj
2.M.B.Ramaraj
3.Shobana Kalyani
4.Jayanthi

... Petitioners/Petitioners

Vs.

J.Bala

... Respondent/Petitioner

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in D.V.P.No.9/2012, on the file of the Judicial Magistrate II, Sangakiri and quash the same as illegal, incompetent, untenable.

For Petitioners : Mr.V.Raghavachari

For Respondent : Mr.N.Manokaran

O R D E R

The petitioners have filed this petition seeking to call for the records in D.V.P.No.9 of 2012, on the file of the learned Judicial Magistrate II, Sangakiri and to quash the same as illegal, incompetent, untenable.

2.The first petitioner is the husband of the defacto complainant, second petitioner is the brother of the first petitioner, third petitioner is the wife of the second petitioner and the fourth petitioner is the sister - in - law of the defacto complainant. The marriage between the first petitioner and the defacto complainant was solemnized on 26.02.2007. At the time of marriage, the parents of the defacto complainant gifted 30 sovereigns of gold, household articles and a sum of Rs.5,000/- cash as sreedhana. Thereafter, during Thalai Deepavali the parents of the defacto complainant gifted two sovereigns gold chain to the first petitioner. After few months, the petitioners started scolding the defacto complainant

and was speaking ill about the defacto complainant's parents. Thereafter, matrimonial dispute arose between the defacto complainant and the first petitioner. Hence, the defacto complainant filed D.V.P.No.9 of 2012, before the learned Judicial Magistrate II, Sangakiri. Challenging the same, this petition has been filed.

3.The learned counsel appearing for the petitioners would submit that there are some allegations against the first petitioner, however, there are no allegations against the other petitioner except some vague statements in the complaint and would further submit that without any materials, implicating the other petitioners is un-sustainable. Accordingly, he prayed for allowing the criminal original petition.

4.The learned counsel appearing for the respondent would submit that the first petitioner's parents demanded dowry and the first petitioner gave torture to the first petitioner through e-mail and other social media. He would further submit that the petitioners 2 to 4 also joined along with the first petitioner and humiliated the respondent.

5.The fact remains that the marriage between the first petitioner and the defacto complainant was solemnized on 26.02.2007. At the time of marriage, the parents of the defacto complainant gifted 30 sovereigns of gold, household articles and a sum of Rs.5,000/- cash as sreedhana. Thereafter, during Thalai Deepavali the parents of the defacto complainant gifted two sovereigns gold chain to the first petitioner. After few months, the petitioners started scolding the defacto complainant and was speaking ill about the defacto complainant's parents. Thereafter, matrimonial dispute arose between the defacto complainant and the first petitioner. Hence, the defacto complainant filed D.V.P.No.9 of 2012, before the learned Judicial Magistrate II, Sangakiri.

6.On a perusal of the petition filed by the defacto complainant reveal that there is no specific allegation made in respect of the petitioners 2 to 4. It is only stated that they joined along with the first petitioner and ill treated the defacto complainant. However, all the allegations alleged by the defacto complainant are against the first petitioner. In the absence of any materials, forcing the petitioners 2 to 4 to face trial is un-sustainable. Hence, this criminal original petition is allowed in respect of the petitioners 2 to 4.

7.The learned counsel appearing for the petitioners would now submit that due to bifurcation of the Salem District, the case has been now transferred to the file of the District Munsif cum Judicial Magistrate Court, Edappadi, Salem District. He

would further submit that this Court may issue direction to the Trial Court to expedite the trial and complete the same as early as possible. He would further submit that the appearance of the first petitioner before the Trial Court may be dispensed with and would further submit that the first petitioner is ready to appear as and when necessary arise.

8.The learned counsel appearing for the respondent concede to the request made by the learned counsel appearing for the petitioners.

9.In view of the above, this Court directs the Trial Court, to expedite the trial and complete the same as early as possible. The appearance of the first petitioner before the Trial Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of the first petitioner for receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C. and judgment and as and when the Trial Court feels it necessary.

10.This criminal original petition is dismissed in respect of the first petitioner and allowed in respect of the petitioners 2 to 4. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate II,
Sangakiri.

2.The District Munsif cum Judicial Magistrate,
Edappadi, Salem District.

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+lcc to Mr.N.Manokaran, Advocate Sr.211

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