

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.11.2020

PRONOUNCED ON : 11.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.24430 of 2015

and M.P.No.1 of 2015

1.Madasamy

2.Saraswathy

..Petitioners/2nd & 3rd Respondents

Vs.

Dr.Chandrakala

... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.3488 of 2014 on the file of the II Metropolitan Magistrate, Egmore, Chennai and quash the same as against the petitioners

For Petitioners: Mr.Sunder Mohan

For Respondent : Mr.L.Baskaran

O R D E R

This matter is taken up for hearing via video conferencing.

2. For the sake of convenience, the parties will be referred to by their names.

3. Facts admitted by both sides are as under :

3.1. Dr.Chandrakala (respondent) and Dr.Ramasamy were in love and on 16.09.2002, they got married without the knowledge of their parents. Two years later, when their families came to know of it, a wedding reception was held in Tuticorin on 23.05.2004, where the parents of Ramasamy viz., Madasamy (1st petitioner) and Saraswathy (2nd petitioner) were living.

3.2. Since Dr.Ramasamy and Dr.Chandrakala were practising in Chennai, they purchased a flat in Anna Nagar West and were living there. In 2005, a daughter Shashini and in 2011, a son Vaibhav Raj were born to them. Their matrimonial life was tumultuous, as could be seen from the allegations and counter allegations made by each other, about which this Court is not advertng to, as they are disputed facts which cannot be gone

into in this quash petition.

4. Be that as it may, it is the specific case of Dr.Chandrakala that she was thrown out from their house in Anna Nagar West by Dr.Ramasamy, sometime in November 2013 and she is living with her two children in her parental home in Chetpet.

5. While this being so, Dr.Chandrakala gave a complaint on 14.02.2014 to the Social Welfare Officer under the Protection of Women from Domestic Violence Act, 2005, (for brevity "the DV Act") for appropriate action and thereafter, initiated proceedings in C.C.No.3488 of 2014 in the Court of the II Metropolitan Magistrate, Egmore, Chennai against Dr.Ramasamy and his parents Madasamy and Saraswathy, for quashing which, the parents are before this Court.

6. Heard Mr.Sunder Mohan, learned counsel for the petitioners and Mr.L.Baskaran, learned counsel for the respondent.

7. Admittedly, Madasamy and Saraswathy are living away from their son Dr.Ramasamy in Tuticorin District, which is about 600 kilometers away from Chennai. In the complaint dated 14.02.2014, that was given by Dr.Chandrakala to the Social Welfare Officer, she has made lot of allegations against her husband Dr.Ramasamy, but, in the passing, she has stated that her parents-in-law are instigating her husband to demand dowry and harass her. In the petition in C.C.No.3488 of 2014 filed by Dr.Chandrakala in the trial Court, she has stated that her father-in-law has said as under :

"since it is a love marriage, you will have to bear with all these things and only if you give one crore, you can live with him".

She has further stated that her mother-in-law has said as under :

"jewels were given during marriage, only for pledging; money is earned only for husband; men can have relationship with any women".

Except the aforesaid averments, there is no other material against the parents-in-law in the petition. It is not stated in the petition as to when, her parents-in-law spoke like that to her.

8. Concededly, the couple were in love with each other, got married without the knowledge of their parents in 2002 and were living separately in Chennai, where they begot two children and after getting separated in 2013, this petition was filed in 2014, not only against Dr.Ramasamy, but, also against his parents, who are admittedly living in Tuticorin. That apart, these allegations were not there in the complaint that was given

by Dr.Chandrakala on 14.02.2014 to the Social Welfare Officer.

9. Mr.Sunder Mohan placed strong reliance on the recent judgment of the Supreme Court in Satish Chander Ahuja Vs. Shena Ahuja (2020 SCC OnLine SC 841) and submitted that, for maintaining a petition under the DV Act, the complainant should have lived in a shared household with the respondents and a casual visit by some of the respondents to the matrimonial home of the complainant would not give a cause of action and drag them into the litigation.

10. Mr.L.Baskaran submitted that the proceedings against parents-in-law cannot be quashed, even if they have a very good case and it is for them to rebut the evidence of the complainant and get relief from the trial Court. In support of this submission, he placed reliance on the following portion of the order of a learned Single Judge of this Court in M.Muruganandam Vs. M.Megala [(2011)1 CTC 841] :

"29.Therefore, in fine, the petitioners have not made out a case for quashing the proceedings initiated by the respondent. An application under the Act or even a complaint before the Criminal Court, cannot be quashed so easily, as a matter of course. The parameters that apply to a quash petition under Section 482 Cr.P.C., would equally apply to an application to quash the proceedings under the Protection of Women from Domestic Violence Act, 2005. Therefore, the decision in Neelu Chopra Vs. Bharti [2009 (10) SCC 184] cited by the learned counsel for the petitioners, will be of no assistance to them, since in that case, it was found that the allegations were vague. But in the case on hand, there are specific allegations. The allegations may be true or false. But the truth or falsity of those allegations, have to be determined only with reference to the evidence adduced by the parties. Even if a person has an excellent case on merits, it cannot be a ground for quashing the proceedings, since in a petition to quash, the Court cannot look into the evidence."

11. This Court gave its anxious consideration to the rival submissions.

12. It is true that the proceedings under the DV Act should not be quashed in a cavalier manner, unless the averments are very frail. At this juncture, it may be relevant to refer to certain developments in the case before the trial Court. Dr.Chandrakala filed CrI.M.P.No.832 of 2014 in C.C.No.3488 of 2014 seeking interim maintenance, in which, the trial Court by order dated 21.04.2015, directed Dr.Ramasamy to pay Rs.25,000/-

every month as maintenance. Challenging the said order, both Dr.Ramasamy and Dr.Chandrakala filed appeals in C.A.No.168 of 2016 and C.A.No.238 of 2016, respectively, in the Court of Session and the learned V Additional District and Sessions Judge, Chennai, by order dated 26.09.2018, modified the quantum of maintenance, by directing Dr.Ramasamy to pay Rs.8,000/- per month to Dr.Chandrakala and Rs.4,000/- each to the children, totalling Rs.16,000/- per month.

13. Be that as it may, this Court does have the power to quash the proceedings against the petitioners, if on facts the situation warrants. As stated above, the couple is practising in Chennai and the children are studying in Chennai. The parents-in-law of Dr.Chandrakala never lived with her in Chennai, but, are living only in Tuticorin. They were not living in the shared household of Dr.Ramasamy and Dr.Chandrakala. The allegations against the parents-in-law are indeed very frail, inasmuch as, it is not even stated, as to when and where, they spoke the words set out above. These allegations were not made by Dr.Chandrakala in the complaint dated 14.02.2014, given by her to the Social Welfare Officer.

14. On an overall assessment of the facts and circumstances of the case, this Court does not find sufficient materials to make Madasamy and Saraswathy to come all the way to Chennai from Tuticorin to face the domestic violence proceedings.

In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.3488 of 2014 on the file of the II Metropolitan Magistrate Court, Egmore, qua Madasamy and Saraswathy/petitioners herein alone, is hereby quashed. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya
To
The II Metropolitan Magistrate
Egmore, Chennai

CRL.O.P.No.24430 of 2015

SR(CO)
RMP(08/12/2020)