

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.5032 of 2015
M.P.No.1 of 2015

1.Babu @ R.S.Karthikeyan
2.R.Subramanian
3.Neelambigai
4.Uma Maheswari petitioners

Vs.

1.Station House Officer,
All Women Police Station, Panruti.
2.Bhanumathi Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the entire proceeding in C.C.No.8/2015 on the file of the Judicial Magistrate No.I, Panruti.

For petitioner: Mr.R.Gururaj

For Respondents: Mr.C.Iyyappa Raj
Additional Public Prosecutor for R1
Mr.R.Rajavelavan for R2

O R D E R

The petitioners, who are A1 to A4 in C.C.No.8 of 2015 facing trial for offence under Sections 498(A), 506(i) IPC r/w 4 and 6 (ii) of Dowry Prohibition Act, have filed this quash petition.

2. The case of the prosecution is that the defacto complainant/second respondent is the estranged wife of the first petitioner. The marriage between the first petitioner and the defacto complainant took place on 10.02.2006 at Panruti. After the marriage, the second respondent was living happily with her husband at Kamarajar Nagar, Panruti. The second and the third petitioner are the parents of the first petitioner, who were living with the first petitioner. After the marriage, they were living happily. Thereafter, the first petitioner started

behaving differently with the second respondent and he was having illegal relationship with one Ranjitha in Chennai. The first petitioner and his parents demanded a sum of Rs.2,50,000/- as dowry for purchasing a car to the second respondent's family. On 20.12.2005, the same was handed over in presence of one Ramasamy, who is a family friend of the second respondent, to the petitioners family . During the marriage, the second respondent/defacto complainant's family gave dowry of 40 sovereigns to the second respondent and 10 sovereigns to the first petitioner. Apart from that, house hold materials namely Fridge, Washing machine, Grinder, TV and other articles were given to the petitioners' family to the tune of Rs.2,50,000/-. After the marriage, the petitioners 1 to 3 had further demanded a sum of Rs.3,00,000/- as dowry and physically assaulted the second respondent. Unable to bear the torture, the second respondent left the matrimonial house. Thereafter, panchayat was held on 12.10.2008 and they rejoined. On 25.12.2009, a girl baby was born. After the delivery, she was taken back to Panruti. Thereafter, the first petitioner left to Chennai and continued his illegal relationship with said Ranjitha. The petitioners 2 and 3 were aware of the relationship between the first petitioner and the said Ranjitha and they stopped the second respondent in joining with the first petitioner at Chennai. The second and the third petitioners treated the second respondent as slave, the mobile phone was taken away from her and she was not allowed to contact with her husband. She was kept under house arrest. Before the marriage, an amount of Rs.2.5 lakhs was received for purchase of car. Thereafter, for purchase of motor bike, another Rs.50,000/- was demanded and on 07.12.2008, the second respondent parents borrowed a sum of Rs.45,000/- from Karunanithi and handed over to them. Six months prior to the complaint, the first petitioner insisted the second respondent to sign the divorce petition stating that he did not like to live with the second respondent. Further, they demanded a sum of Rs.2,00,000/-. On 05.06.2011, engagement function of the defacto complainant's sister took place. But the petitioners did not allow the defacto complainant to participate in it and they had ill-treated her. Therefore, the second respondent gave a complaint to the police, initially CSR was registered. Even thereafter, they harassed the second respondent continuously. Hence, another complaint was lodged in the year 2011 and again CSR was registered. Finally, on 02.06.2011, the second respondent and her child were chased away from the matrimonial House and the petitioners retained the jewels of the second respondent presented during the marriage. Thereafter, the second respondent filed a maintenance case in M.C.No.36 of 2014. Further she filed O.S.No.106 of 2014 seeking partition in her husband's property. At this stage, the enquiry was held in M.C.No.36/2014 on 18.11.2014. After attending the enquiry, the second respondent came out from the Court, at that time, the

first petitioner abused her in filthy language. Thereafter, on, 19.11.2014, when the second respondent's father was waiting for a bus in Cuddalore Bus stand, the second petitioner abused and threatened her father. Thus, the second respondent lodged a complaint. This complaint was received by the respondent Police on 01.12.2014. Thereafter, the above case was registered against the petitioners 1 to 4. On registration of the case, witnesses were examined, investigation was completed and charge sheet was filed. Against which, the quash petition is filed.

3. The contention of the petitioners is that the first petitioner is the estranged husband of the second respondent. The marriage between them took place on 10.12.2006 at Panruti. The second and the third petitioners are the parents of the first petitioner and the 4th petitioner is the sister of the first petitioner. The first petitioner is an MCA Graduate employed in a private Company in Chennai. Right from the beginning of marriage, the second respondent was not interested in the marriage life and she never allowed the first petitioner to become close to her and the first petitioner was living as a bachelor even after the marriage. The first petitioner got employed in Chennai and during weekends, he visited Panruti. When the first petitioner called the second respondent over phone, she failed to respond. After panchayat was held on 12.10.2018, they started living together and on 25.12.2009, a girl baby was born. Thereafter, the second respondent was making bald allegations, as if the first petitioner was having illegal relationship with Ranjitha. The said Ranjitha is the friend of the first petitioner. Now, she is no more and passed away. The petitioners 1 to 3 never demanded money for purchase of car and motor bike. During the marriage, the jewels were presented as sridhdhana articles, which is a normal practice in their community. The second respondent had already taken the jewels, when she left the matrimonial home. Thereafter, the first petitioner had filed H.M.O.P.No.140 of 2014 seeking restitution of conjugal rights. The 4th petitioner was married even before the first petitioner's marriage and she was living separately with her family. It is seen from the charge sheet that the petitioners 1 to 3 were living separately and the 4th petitioner is living with her husband. Further, earlier there was a complaint given by the second respondent in the year 2007, which was later closed. Thereafter, the second respondent had filed M.C.No.36/2014 on 04.07.2014, in which, there is no allegation against the petitioners. Likewise, she had filed O.S.No.104 of 2014, in which, she admitted that from the year 2011, she was living separately. With the intention of vengeance, the above case has been lodged against the petitioners. Further, he submitted that she had left Matrimonial Home during the year 2011 and the complaint has been filed, after a lapse of three

years, without any reason for delay in lodging the complaint. Further, he submitted that in the list of witnesses, L.W.1 is the defacto complainant, L.W.2 and L.W.3 are the father and mother of the defacto complainant and the other witnesses are her relatives and neighbours. L.W.10 is the Sub-Inspector of Police, who received the complaint. No independent witnesses have been examined and the respondent police have not taken any steps to ascertain the truthfulness and mechanically filed a charge sheet. Hence, he prayed for quashing the complaint.

4. The learned counsel for the second respondent/defacto complainant submitted that even six months prior to the marriage, there was a demand for purchasing a car and the petitioners received a sum of Rs.2.5 lakhs. During the marriage, 40 sovereigns were given to the second respondent and 10 sovereigns were given to the first petitioner. Further, household articles to the tune of Rs.2.5 lakhs were presented. All these demands were made by the petitioners. Even thereafter, the first petitioner and the second respondent were not living happily, since the first petitioner had illegal relationship with one girl Ranjitha. The second respondent was treated as slave and she was not given proper food. Her mobile phone was taken away and she was not allowed to contact with her parent and relatives. She was kept under house arrest. A girl child was born in the year 2009. Thereafter, they harassed the petitioner continuously. Unable to bear the torture, she left matrimonial home. Thereafter, she lodged a complaint to the respondent police. Since it was a matrimonial issue, initially CSR was registered and undertaking was given by the petitioners that they will take care of the second respondent properly. Thereafter, she joined the matrimonial home. After some time again, she was chased away and again, a complaint was given. All the petitioners joined together and forced the second respondent to give consent for divorce and she was assaulted by the petitioners. On registration of FIR, investigation was conducted and witnesses were examined. Thereafter, on recording the statement of witnesses and collection of materials, charge sheet was filed. Hence, he opposed the quash petition.

5. The learned Additional Public Prosecutor submitted that in this case, a complaint was received by post on 01.12.2014. Thereafter, it was forwarded to the Social Welfare Officer, who conducted an enquiry and found that there was demand of dowry. Thereafter, a case came to be registered and the investigation was conducted. On the complaint, initially CSR was registered and both the petitioners and the respondent were called for enquiry. During the enquiry, it was agreed for re-union and since it was a matrimonial case, CSR was initially assigned and

after conciliation, CSR was closed. Even thereafter, they continuously harassed the second respondent and the case came to be registered and the witnesses were examined. Other than the family members of the defacto complainant/second respondent, independent witnesses have stated about the demand of dowry and subjecting the defacto complainant to cruelty. Recording the statement of witnesses and collection of materials, charge sheet was filed. In this case, after filing the charge sheet, the Trial Court namely Judicial Magistrate-I, Panruti had taken cognisance of the offence under Sections 498(A), 506(i) IPC r/w 4 and 6(ii) of Dowry Prohibition Act, assigned C.C.No.8 of 2015. During the pendency of the trial, the quash petition was filed. During the pendency of the above petition, two witnesses were examined namely L.W.1 as P.W.1 and L.W.2 as P.W.2. Thereafter, the case is posted on 22.09.2020 for examination of witnesses. Once the charge sheet filed and the trial commenced, it would be appropriate that the trial Court to reach its logical conclusion and there is no extraordinary situation in this case for quashing the complaint. Due to the pendency of the above petition, the trial is stalled. Hence, he opposed the quash petition.

6. Considering the rival submissions and on perusal of the materials, it is seen that the averments are primarily against the petitioners 1 to 3. It is admitted that the petitioners 1 to 3 were residing together. As regards the 4th petitioner, she was married prior to the marriage between the first petitioner and the second respondent. She was living happily with her husband and child. Except for stray reference that she forced the second respondent to sign the divorce petition, there is no allegation against the fourth petitioner. There have been maintenance case, matrimonial case and civil suit filed by the second respondent against the petitioners family. In all these proceedings, it is admitted that she had left matrimonial house during the year 2011 and there is no allegations against the fourth petitioner. Further, apart from this bald allegations, there is no material available against the fourth petitioner. It is admitted that the fourth petitioner is residing separately with her family and the averments against her are not sufficient. This Court finds that the continuance of the proceedings against the fourth petitioner namely A4/Uma Maheswari would amount to abuse of process of law. Hence, the proceedings against A4 alone is quashed.

7. Accordingly, the Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.I,
Panruti.
- 2.-Do- Through The Chief Judicial Magistrate,
Cuddalore District.
- 3.The Station House Officer,
All Women Police Station, Panruti.
- 4.The Public Prosecutor,
High Court, Madras.

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