

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.20741 of 2014

1.M.Sankaran
2.M.S.Saroja
3.Jayanthi
4.Bhuvaneshwari

... Petitioners/Respondents 2 to 5

Vs.

E.Sharmila

... Respondent/Complainant

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in M.C.No.42 of 2014 on the file of the learned XVIII Metropolitan Magistrate, Saidapet and quash the same.

For Petitioners: Ms.R.S.Akila
for M/s.Sudha Ramalingam
For Respondent : No Appearance

O R D E R

This criminal original petition has been filed seeking to call for the records in M.C.No.42 of 2014 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and to quash the same.

2.The petitioners are the Father - in - Law, Mother - in - Law, and Sisters - in - Law of the respondent/ defacto complainant and they are arrayed as accused 2 to 4 in M.C.No.42 of 2014 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, for the alleged offence under Sections 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005. Challenging the same, the petitioners have filed this petition.

3.The marriage between the defacto complainant and the first accused was solemnized on 22.08.2010 as per the Hindu Rites and Customs at V.S.Sundaram Meenakshi Maligai, Madurai and no child was born out of the wedlock till the filing of the complaint.

4.It is alleged in the complaint that the defacto complainant's parents have passed away at her tender age and she was under the care and custody of her brothers. The expenditure for her marriage was borne by her brothers and 40 sovereigns of gold jewellery, 1-1/2 Kg., of silver articles and other household articles were given as sreedhana at the time of her marriage.

5.It is further alleged that the first accused is earning a sum of not less than Rs.2,75,000/- per month and he has purchased a flat in Bangalore and also owns a sedan car. The accused never allowed the defacto complainant to stay in the matrimonial home and the defacto complainant found there was something wrong with the first accused on the day of nuptial itself since he was not interested in having physical intimacy with the defacto complainant. The torture given by the accused forced the defacto complainant to lodge the complaint.

6.The learned counsel appearing for the petitioners would submit that immediately after marriage there is no compatibility inbetween the defacto complainant and the first accused. She would further submit that immediately after marriage, the respondent/ defacto complainant and the first accused started their matrimonial life at Jofferkhanpet, Chennai and thereafter they moved to Ashok Nagar, Chennai, whereas, the petitioners 1 and 2/ accused 2 and 3 are residing at Palani, the third petitioner/ fourth accused is residing at Arumbakkam, Chennai and the fourth petitioner/ fifth accused is residing at Saligramam, Chennai.

7.The learned counsel appearing for the petitioners would further submit that the third petitioner got married in the year 2000 and the fourth petitioner got married in the year 2009, before the marriage of the defacto complainant and the first accused. She would further submit that there is no specific allegation against the petitioners except the allegation that at the instigation of the petitioners, the first accused deserted the defacto complainant/ respondent. Accordingly, she prayed for allowing the criminal original petition.

8.At the time of entertaining this petition on 06.08.2014, this Court ordered notice to the respondent. Thereafter, on 05.02.2020, this Court permitted the petitioners to effect service through paper publication. Accordingly, paper publication was effected and affidavit of service has also been

filed. On 19.02.2020, this Court has directed to print the name of the respondent and to list the matter today (21.02.2020). Today, the name of the respondent is printed in the cause list, however, there is no representation for the respondent. Hence, this Court decides to proceed with the case by perusing the materials available on record.

9. Heard the arguments advanced by the learned counsel appearing for the petitioners and perused the materials available on record.

10. Perusal of records disclose that the marriage between the defacto complainant and the first accused was solemnized on 22.08.2010 as per the Hindu Rites and Customs at V.S. Sundaram Meenakshi Maligai, Madurai and no child was born out of the wedlock till the filing of the complaint.

11. Perusal of records further disclose that the defacto complainant's parents have passed away at her tender age and she was under the care and custody of her brothers. The expenditure for her marriage was borne by her brothers and 40 sovereigns of gold jewellery, 1-1/2 Kg., of silver articles and other household articles were given as sreedhana at the time of her marriage.

12. Perusal of records further disclose that the first accused is earning a sum of not less than Rs.2,75,000/- per month and he has purchased a flat in Bangalore and also owns a sedan car. The defacto complainant found that there was something wrong with the first accused on the day of nuptial itself since he was not interested in having physical intimacy with the defacto complainant.

13. Perusal of records further disclose that immediately after marriage there is no compatibility in between the defacto complainant and the first accused. The respondent/ defacto complainant and the first accused started their matrimonial life at Jofferkhanpet, Chennai and thereafter they moved to Ashok Nagar, Chennai, whereas, the petitioners 1 and 2/ accused 2 and 3 are residing at Palani, the third petitioner/ fourth accused is residing at Arumbakkam, Chennai and the fourth petitioner/ fifth accused is residing at Saligramam, Chennai.

14. Perusal of records further disclose that there are allegations against the first accused. Except the allegations, that knowing about the conduct of the first accused, his parents went ahead with the marriage; the accused to cover up their fault unnecessarily made false allegation on the defacto

complainant and abused her in filthy language in front of other relatives and neighbours; and on 08.11.2010, the accused had beaten up the defacto complainant and chased her to get further amount from her brothers, no other allegations have been made as against the petitioners.

15.Hence, this Court is of the opinion that these allegations are not sufficient to implicate the petitioners as accused. Hence, this Court is inclined to quash the proceedings in M.C.No.42 of 2014 as against these petitioners, however, the Trial Court shall proceed with the case as against the first accused.

16.Apart from the above, the records also disclose that the first accused has filed a petition for divorce before the Family Court at Chennai and the same is pending.

17.In view of all the above, I have no hesitation to allow this criminal original petition. This criminal original petition is accordingly allowed and the proceedings in M.C.No.42 of 2014 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed in respect of these petitioners alone. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To

1.The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

+3 cc to M/s.SudhaRamalingam Advocate sr 15305

CrI.O.P.No.20741 of 2014

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