

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.5722 of 2014
and
MP.Nos. 1 & 2 of 2014

1.Mani
2.Bakkiyam
3.Saritha
4.Kumaresan Petitioners/A2 to 5

Vs.

1.The Inspector of Police,
W-35, All Women Police Station,
Tambaram.
Cr.NO.22 of 2011 Respondent/complainant

2.S.Hemalatha Respondent/ Defacto complainant

Prayer: Petition filed under Section 482 of Cr.P.C., seeking to call for the records in respect of the charge sheet in C.C.No.1321 of 2013 pending on the file of Judicial Magistrate, Tambaram and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondents: Mr. V.Saradhadevi, GA for R1
: M/S.Chairman Selvaraj for R2

ORDER

This Criminal original petition has been filed seeking to call for the records in respect of the charge sheet in C.C.No.1321 of 2013 pending on the file of Judicial Magistrate, Tambaram and quash the same.

2.The case of the prosecution is that the marriage of the defacto complainant with the first respondent was solemnized on 26.01.1996. After the marriage, they were blessed with a male child in the year 1997. Later, on the request of the first accused, the defacto complainant obtained a sum of Rs.5 Lakhs

from her parents for the purpose of flower business at Koyaembedu market and has also taken 50 sovereigns of gold which was given at the time of marriage, and further the defacto complainant's father also helped the 1st accused to purchase the shop in Koyambedu market. Thereafter the first accused and other accused persons ignored the defacto complainant and her child and demanded more money and tortured her, thereby the defacto complainant filed a complaint before the respondent police and after enquiry/investigation the law enforcing agency filed a charge sheet in C.C.No.1321 of 2013, on the file of the learned Judicial Magistrate, Tambaram. Challenging the same, the parents of the first accused, sister and brother in law of the first accused have filed the present petition.

3.Learned counsel appearing for the petitioners submit that the petitioners are A-2 to A-5 in C.C. No.1321/13. It is the further submission of the learned counsel for the petitioners that though allegations have been made against A-2 to A-4 in the complaint, however, no specific allegation has been made as against A-5, who is the 4th petitioner herein. It is the further submission of the learned counsel for the petitioners that petitioners 1 and 2 are aged persons and, therefore, their appearance before the trial court during trial may be dispensed with. It is further submitted that as there is no allegation made against the 4th petitioner herein, atleast the complaint as against the 4th petitioner may be quashed.

4.Learned Government Advocate (Crl. Side) appearing for the 1st respondent vehemently opposed the quashment of the complaint as against the petitioners and submitted that the allegations are grave and substantive and the culpability of the accused could be established only at the time of trial.

5.When the case is taken up for hearing, there is no appearance on behalf of the 2nd respondent. However, a counter affidavit has been filed on behalf of the 2nd respondent. A perusal of the said counter reveals that the allegation levelled by the petitioner is only against A-1 to A-4 in the complaint, who are petitioners 1 to 3 herein. There is no charge or allegation as against the 4th petitioner herein.

6.This Court has paid its undivided attention to the contentions advanced by the learned counsel on either side and also perused the materials available on record and also take into account the counter filed by the 2nd respondent.

7.A careful perusal of the counter reveals that the 2nd

respondent has not made any allegations as against the 4th petitioner herein, who is arrayed as A-5. The counter proceeds on the premise that the jewels belonging to the 2nd respondent have been taken by A-1 to A-4 for the purpose of conducting the marriage of the 3rd petitioner herein. However, curiously, the 4th petitioner herein has also been roped in as an accused in the complaint. But for a stray allegation that the 4th petitioner herein also participated in driving out the 2nd respondent along with her child out of the house, there is no other allegation as against A-5. However, insofar as petitioners 1 to 3 are concerned, prima facie there are materials as against them, which requires a full fledged trial to be conducted to arrive at a finding as to their involvement in the offence. The allegations as against petitioners 1 to 3 cannot be brushed aside at this point of time. However, as stated above, the complaint as against the 4th petitioner herein is devoid of substance and, therefore, the complaint insofar as the 4th petitioner herein is concerned deserves to be quashed.

8. For the reasons aforesaid, this petition is allowed insofar as the 4th petitioner alone is concerned and it stands disposed of insofar as petitioners 1 to 3. This Court directs the learned Judicial Magistrate, Tambaram, to proceed with the trial in C.C. No.1321/13 in respect of petitioners 1 to 3 herein and complete the same within a period of six months from the date of receipt of a copy of this order. The appearance of the petitioners 1 to 3 before the trial court is dispensed with except for their appearance for the purpose of receiving copies u/s 207 Cr.P.C., framing of charges, questioning u/s 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days, however, taking into account the age of the petitioners 1 and 2 herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

jrs

To

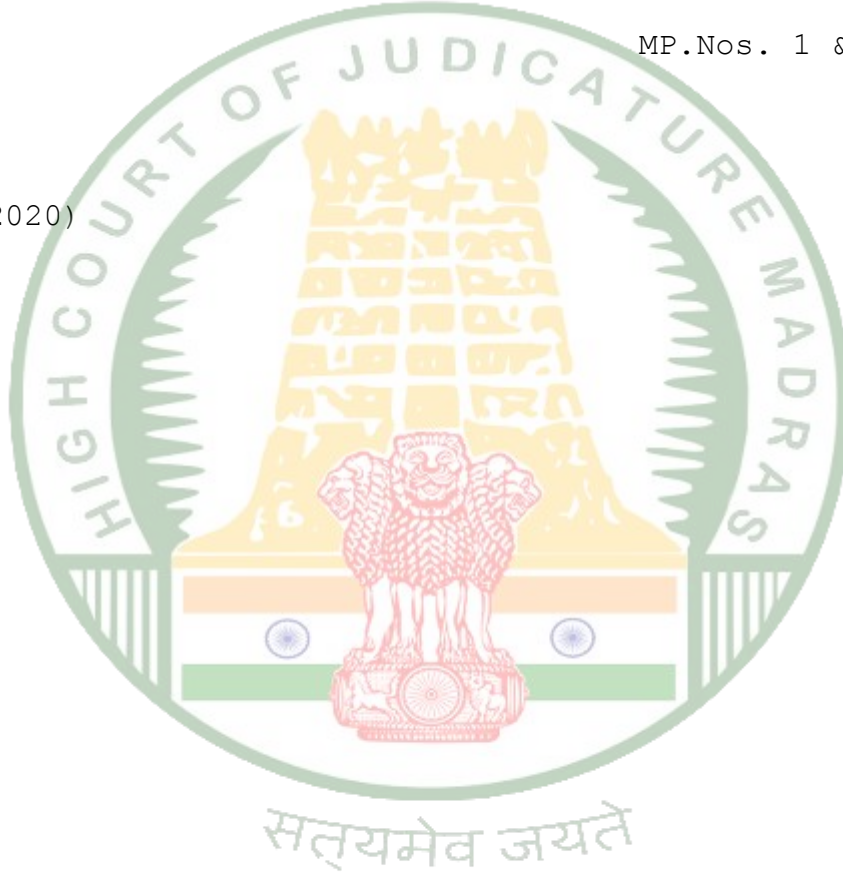
1.The Judicial Magistrate Court,
Tambaram.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No. 13691

Crl.O.P.No.5722 of 2014
and
MP.Nos. 1 & 2 of 2014

SPD (CO)
GN(12/03/2020)



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