

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.O.P.No.21975 of 2014
and M.P.No.1 of 2014

1.D.Basker,
S/o.Chandrasekar.

2.Dr.Gomathi,
W/o.Basker.

3.Dr.Poongothai,
W/o.Arulmozhiselvan.

4.Arulmozhiselvan,

5.Sunderajan,
S/o.Thiruvankadam.

6.Geetha,
W/o.Karunakaran.

7.Kumar,
S/o.Jagabthan.

... Petitioners

-vs-

State by Inspector of Police,
All Women Police Station,
Suramangalam,
Salem.

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.96 of 2013 on the file of the Judicial Magistrate, Additional Mahila Court, Salem and quash the same.

For Petitioners : Mr.K.P.Anantha Krishna.

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl.side).

O R D E R

This petition has been filed to quash the proceedings in C.C.No.96 of 2013 on the file of the learned Judicial Magistrate, Additional Mahila Court, Salem.

2.The learned counsel for the petitioners would submit that the petitioners herein were arrayed as A4 to A10 in Crime No.04 of 2009, on the file the respondent Police. He further submitted that at the relevant period of time, the defacto complainant and her husband/A1 lived separately in Canada. The petitioners herein were not the family members and also not residing in the same house or in the same village. They were living far away from the place as mentioned in the charge sheet. These petitioners are only the distant relatives and they were no way connected with the alleged offence or with the petitioners. With an intention to harass the petitioners, this false complaint has been made against them. They have not harassed or demanded any money from the defacto complainant. Therefore, the offence under Section 498 IPC would not attract. In support of his contention, the learned counsel further relied upon the judgment rendered by the Hon'ble Supreme Court in the case of Geetha Mehrotra Vs.State of Uttar Pradesh reported in (2012) 10 SCC 741 and seeks to quash the proceedings in C.C.No.96 of 2013.

3.The learned Government Advocate would submit that defacto complainant/victim has given a statement before the investigating officer, which prima facie shows allegations as against her husband as well as against these petitioners. The probative materials or evidence cannot be taken into at this stage and it is to be tested only during the trial. Therefore, the petition is liable to be dismissed.

4.Heard both sides and perused the records.

5.Admittedly, the first respondent has filed a case as against the petitioner and three others for the offence punishable under Section 498(a) IPC. A1 is the husband of the defacto complainant, A2 and A3 are the in-laws of the defacto complainant. On reading of the final report filed by the respondent Police under Section 173 Cr.P.C., prima facie allegations are made out as against all the accused including these petitioners. Whether the allegations substantiated with any materials or not, that are to be tested only during the trial and not at this stage. The judgment referred to by the learned counsel for the petitioners will not be applicable to the facts and circumstances of the present case on hand. Moreover, the statement recorded under Section 161 Cr.P.C., also reveals prima case as against these petitioners.

6.Under such circumstances, this Court is of the opinion that it is not a fit case to quash the final report in C.C.No.96 of 2013, under Section 482 Cr.P.C. Therefore, this Criminal

Original Petition is dismissed. Connected miscellaneous petition is also closed. However, the petitioners are at liberty to raise all their defence before the trial Court. The petitioners are also at liberty to file an application to dispense with their presence before the trial Court in accordance with law.

7.Since, the matter is pending from 2013, the learned Judicial Magistrate, Additional Mahila Court, Salem, is directed to dispose of the case in C.C.No.96 of 2013, within four months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar(C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Additional Mahila Court,
Salem.

2.The Inspector of Police,
All Women Police Station,
Suramangalam,
Salem.

3.The Public Prosecutor,
High Court,
Madras.

AKM/10.02.2020 /3p-4c/

सत्यमेव जयते

Cr1.O.P.No.21975 of 2014

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