

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.27277 of 2014  
and  
Crl.M.P.No.1 of 2014

1.Rangasamy  
2.Govindammal

...Petitioners

.Vs.

1.The State, rep.by,  
Inspector of Police,  
W-21, Gundi Police Station,  
Chennai-600 038.

2.Saratha

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.3294 of 2014 on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai and quash the same as illegal.

For Petitioner : Mr.C.T.Saravanan

For R1 : Mr.K.Prabakar,  
Additional Public Prosecutor

For R2 : Mr.Nandhakumar,  
Legal Aid Counsel

ORDER

The petitioners/A2 and A3, who are facing trial in C.C.No.3294 of 2014 before the learned IX Metropolitan Magistrate, Saidapet, Chennai, have filed the quash petition.

2.Despite service of notice dated 08.10.2014, the 2<sup>nd</sup> respondent failed to appear before this Court. Since the petition has been pending from the year 2014, this Court by order dated 19.08.2020 appointed Mr.Nandhakumar as Legal Aid Counsel for the 2<sup>nd</sup> respondent.

3.There are totally three accused in C.C.No.3294 of 2014.

The petitioner/A2 and A3 are father-in-law and mother-in-law of the 2<sup>nd</sup> respondent and A1 is her husband. During trial, the 2<sup>nd</sup> petitioner/A3 died on 31.07.2017. The case of the prosecution is that the 2<sup>nd</sup> respondent got married A1 in a temple at Vallakottai, Chennai on 05.03.2007, which was an arranged marriage. During the marriage, 30 sovereigns of gold jewels, cash of Rs.50,000/- and sridhana articles were given, of which 20 sovereigns was pledged on request of the petitioners and the cash of Rs.40,000/- was given to A1. Thereafter, the petitioners were demanded more dowry from the 2<sup>nd</sup> respondent and stated that if the demand is failed to do, their son would be given in marriage to some other girl and physically assaulted. When the 2<sup>nd</sup> respondent came to know about A1 got married some other lady, she questioned the petitioners. The petitioners stated that their son/A1 will not live with the 2<sup>nd</sup> respondent and pulled her and attempted to misbehave with her. Hence, the 2<sup>nd</sup> respondent lodged a complaint to the 1<sup>st</sup> respondent, who on receipt of the complaint, registered a case in Crime No.2 of 2014 for offence under Section 498-A, 406 IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act. Since there was no materials attracting the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, the 1<sup>st</sup> respondent filed alteration report by deleting Section 4 of Tamil Nadu Prohibition of Women Harassment Act. Thereafter, filed the charge sheet before the Court, listing LW1 to LW5.

4.The learned counsel for the petitioners submitted that on going through the complaint and the statement of witnesses, it is seen that there is no overtact attributed against the petitioners. In this case, the 2<sup>nd</sup> petitioner/A3 died on 31.07.2017. The learned counsel further submitted that the allegation against the 1<sup>st</sup> petitioner is that he pulled the 2<sup>nd</sup> respondent, made advancement and caused harassment. During investigation, the 1<sup>st</sup> respondent finding no such offence under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act has been made, filed an alteration report on 10.04.2014 by deleting Section 4 of the Tamil Nadu Prohibition of Women Harassment Act.

5.The learned counsel for the petitioners further submitted that the 1<sup>st</sup> respondent Police totally enlisted five witnesses viz., LW1 to LW5. LW1 is the 2<sup>nd</sup> respondent, LW2 and LW3 are the cousin brother and friend of the 2<sup>nd</sup> respondent, LW4 is the local resident and LW5 is the Investigating Officer. All these witnesses are interested witnesses and they are either related or known to the 2<sup>nd</sup> respondent and no public witnesses were examined. Further, on going through the statement of witnesses, it is seen that except for bald allegations, nothing specific against the petitioners. He further submitted that the 1<sup>st</sup> petitioner is aged about 70 years and due to the pendency of the

above case, he has been put to unnecessary harassment and sufferings. Hence, he prayed to quash the proceedings against the 1<sup>st</sup> petitioner.

6.The learned Additional Public Prosecutor appearing for the 1<sup>st</sup> respondent filed counter and submitted that the marriage between the son/A1 of the petitioners and the 2<sup>nd</sup> respondent had taken place on 25.03.2007. During the marriage, 30 sovereigns of gold jewels was presented and also cash of Rs.50,000/- and household articles. The petitioners along with their son/A1 demanded more dowry and assaulted the 2<sup>nd</sup> respondent. Thereafter, the 2<sup>nd</sup> respondent lodged a complaint with the 1<sup>st</sup> respondent, who registered a case on 05.02.2014. During investigation, the 1<sup>st</sup> respondent finding that there was no materials against the petitioner for offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, filed an alteration report on 10.04.2014. He further submitted that in this case, the 2<sup>nd</sup> petitioner/A3 was died on 31.07.2017. The trial Court had taken the case on file on 12.06.2014 and examined four witnesses. PW1 was examined on 11.08.2014, PW2 and PW3 were examined on 21.08.2014, PW4 was examined on 18.09.2014. They have categorically deposed against the petitioners. In view of the same, the only recourse available to the 1<sup>st</sup> petitioner is to face the trial and put forth his defence before the trial Court. Further, the trial already reached the penultimate stage and within a short period, the entire trial proceedings to be completed. The petitioners by filing this petition, prolonged and delayed the progress of the trial. After commencement of examination of witnesses, the above petition came to be filed.

7.The learned counsel for the 2<sup>nd</sup> respondent submitted that the marriage between A1 and the 2<sup>nd</sup> respondent had taken place in the year 2007 and the complaint was lodged on 05.02.2014, since the 2<sup>nd</sup> respondent was unable to withstand the harassment and dowry demand made by the petitioners and A1. He further submitted that the petitioners, who are father-in-law and mother-in-law of the 2<sup>nd</sup> respondent along with their son/A1, had physically assaulted the 2<sup>nd</sup> respondent, by demanding more dowry. Further, 30 sovereigns of gold jewels, which were presented during the marriage, were pledged and misappropriated by the petitioners. During the year 2010, the petitioner's son/A1 had married another girl and he is happily living with her.

8.It is further submitted that earlier to the complaint, notice was issued to the accused for compromise. The accused had come to compromise and undertaken to take back the 2<sup>nd</sup> respondent and continue with the matrimonial life, but the same was not done. On the other hand, the petitioner's son married another girl and got a child. Further, the neighbours of the 2<sup>nd</sup>

respondent also witnessed the assault and harassment of the accused. All the witnesses examined so far, categorically stated about the demand of dowry and physical assault on the 2<sup>nd</sup> respondent.

9. In this case, before the trial Court, the witnesses have been examined and they have categorically stated about the overtact against the petitioners. Hence, the above quash petition cannot be entertained and the same is to be dismissed.

10. On considering the submissions made on either side and on perusal of materials, it is seen that there have been totally five listed witnesses, of which four witnesses have been examined before the trial Court and the trial is almost in the verge of completion.

11. The learned counsel for the petitioners submitted that the 1<sup>st</sup> petitioner is aged about 70 years and he lost his wife and he is completely demoralized, without help and aid of another person, he is unable to move. Hence, he prayed for exemption from personal appearance, unless specifically required, in the event of the above petition is dismissed.

12. Thus, the points raised by the learned counsel for the petitioners to quash the proceedings, does not merit any consideration. In view of the above, this Criminal Original Petition lacks merits and is, accordingly, dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

13. Considering the 1<sup>st</sup> petitioner is aged more than 70 years and he is with age related ailments, this Court directs the trial Court to consider the petition liberally, seeking dispensation of personal appearance and not to insist the appearance of the petitioner/A2. However, it is open to the trial court to direct and insist his personal appearance, if it is required.

14. This Court places its appreciations to Mr. Nandhakumar, Legal Aid Counsel for the 2<sup>nd</sup> respondent for thorough preparation and effective arguments made in this case.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The IX Metropolitan Magistrate Court,  
Saidapet,  
Chennai.
- 2.The Chief Metro Politan Magistrate,  
Egmore,  
Chennai.(For information)
- 3.The Inspector of Police,  
W-21, Gundiy Police Station,  
Chennai-600 038.
- 4.The Public Prosecutor,  
High Court, Madras.

Crl.O.P.No.27277 of 2014

RP(CO)  
RN(20/10/2020)