

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.22090 of 2017 and
Crl.M.P.No.12983 of 2017

S.Gowri Shankar

... Petitioner

Vs.

1.State rep by Inspector of Police,
All Women Police Station,
Sriperumbudur, Kancheepuram District,
Crime No.5 of 2017.

2.Gokila

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.5 of 2017 pending on the file of the All Women Police Station, Sriperumbudur, Kanchipuram District and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.V.Stalin

For R1 : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

For R2 : Mr.M.Guruprasad

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.5 of 2017, pending on the file of the 1st respondent Police, for offence under Sections 498(A), 294(b), 323, 506(i) and Section 4 of the Incident Representation of Women Act, 1986.

2.The gist of the case is that the 2nd respondent, the estranged wife of the petitioner, lodged a complaint on 14.09.2017 that she and the petitioner hail from Erode District and they know each other, the petitioner was working in Hyundai Car company, Sriperumbudur. Both of them, from the year 2010, lived as a husband and wife. Due to which, the 2nd respondent

got conceived. When the same was informed to the petitioner, the petitioner compelled her to abort pregnancy and insisted her to have marriage with someone as her parents wish and she informed the same to her parents. On compulsion of the 2nd respondent and her family members, the marriage between the 2nd respondent and the petitioner took place on 12.06.2017. After the marriage, the petitioner used to come in drunken state and assault her by demanding 30 sovereigns of jewels and one lakh in cash as dowry and claimed that he would have received such dowry, if he had not married the 2nd respondent.

3. After the marriage, the relationship between them became stormy. During the year 2017, the petitioner left the matrimonial house and not returned to home. On 09.09.2017, the 2nd respondent called the petitioner through his mobile, at that time, the petitioner reiterated his demand of dowry and stated that unless the dowry is paid, he would not return back. On 13.09.2017, the 2nd respondent went to Hyundai Car Company gate, where she questioned the petitioner about his attitude. At that time, the petitioner scolded her with abusive words and kicked on her stomach and forced her to give concurrence for divorce. Thereafter, the 2nd respondent with the help of his brother, went to the Government Hospital, Sriperumbudhur and lodged the above complaint.

4. The learned counsel for the petitioner submitted that it is an admitted case that the petitioner and the 2nd respondent hail from Erode District and liked each other and living as husband and wife and the marriage between them is a love-cum-arranged marriage. In the view of the same, the question of demand of dowry does not arise. The learned counsel further submitted that on 11.09.2017, the 2nd respondent along with her brother and sister came to the house of the petitioner and assaulted him and forcibly taken away the jewels, educational certificate along with jewel loan card and all other documents available. Hence, the petitioner gave a complaint, for which CSR issued. As a counter blast, this complaint was lodged on 14.09.2017 as though the alleged occurrence took place on 13.09.2017. Further, there is a considerable amount of delay in lodging the complaint, for which no reason has been given.

5. The learned counsel for the petitioner further submitted that the petitioner was arrested on the false complaint given by the 2nd respondent on 14.09.2017 and was lodged in Sub Jail, Kancheepuram. On 16.09.2017, he was granted bail and made representation to the higher authorities about the falsity of the complaint given by the 2nd respondent. He further submitted that the 1st respondent did not properly conduct any enquiry and violated the guidelines given by the Hon'ble Apex Court in the cases of matrimonial dispute. The petitioner was never called

for any enquiry and no steps taken for mediation. Infact, the petitioner had earlier given a complaint on 11.09.2017 against the 2nd respondent and her family members. The arrest of the petitioner was widely given publicity and thereby, he is facing lot of criticism, disrespect and disturbance in the workplace. During the matrimonial life, the 2nd respondent failed to act as a dutiful wife, developed hatred on the petitioner and attempted to grab his property. The petitioner was contemplating to proceed against the 2nd respondent before the family Court. Hence, the learned counsel for the petitioner prayed to quash the FIR in Crime No.5 of 2017 against the petitioner.

6.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the 2nd respondent was assaulted in public by the petitioner and thereby, she sustained injuries and went to the Government Hospital, Sriperumbudur and took treatment. On receipt of the complaint, an FIR in Crime No.5 of 2017 has been registered on 14.09.2017. After 15 days of registration of FIR, the petitioner approached this Court and got interim stay during October 2017. Due to which, no investigation could be done. Therefore, this Court may issue a direction to complete the investigation within a stipulated time.

7.The learned counsel for the 2nd respondent submitted that the 2nd respondent is a Post Graduate. The petitioner and the 2nd respondent hail from Erode District and they know each other and the petitioner was working in Hyundai Car company, Sriperumbudur. Both of them, from the year 2010, were living as a husband and wife. On coming to know about the 2nd respondent getting pregnant, the petitioner started neglecting her by giving one reason or other and compelled her to abort pregnancy and forced her to go back to her parents house and find a bridegroom. Thereafter, the 2nd respondent approached the petitioner and his family members for marriage with the petitioner and finally, both the family members agreed for marriage and the marriage was held on 12.06.2016. During the marriage as per expectation and custom, Sridhana articles were presented to the petitioner. Not satisfied with the same, the petitioner started demanding more dowry and jewels. Added to it, he assaulted and harassed the 2nd respondent. During August 2017, the petitioner deserted the 2nd respondent and with great difficulty, she contacted him, but he was evasive. Finally, on 13.09.2019, the 2nd respondent went to the Hyundai Car Company gate, where the petitioner was working and questioned him. At that time, in public view, the petitioner abused her with filthy language and kicked on her stomach. Due to which, she got injuries and went to the Government Hospital, Sriperumbudur and lodged the complaint.

8.The learned counsel for the 2nd respondent further submitted that the points raised by the petitioner to quash the FIR is not sufficient and it has to be decided only during investigation.

9.This Court considered the rival submissions and perused the materials available on records.

10.It is seen that in this case, the petitioner and the 2nd respondent had love affair and they lived together as husband and wife. During this period, the 2nd respondent had become pregnant and the petitioner forced her to abort the same, which was resisted. Later on the compulsion of the 2nd respondent and her family members, the marriage between them had taken place on 12.06.2013. During the matrimonial life, the 2nd respondent was put to continuous harassment and was assaulted for demand of dowry. Finally, the 2nd respondent was assaulted in public view. Further, the jewels, which was presented during the marriage and other articles presented were taken away by the petitioner. Hence, the complaint came to be lodged. Even before any substantial investigation, the petitioner approached this Court and got interim stay during October 2017.

11.The allegations made against the petitioner are serious in nature and the victim being a women has been subjected to harassment and physical assault, the genuineness of the petitioner claim to be decided only during the investigation. Thus, even before any investigation, the case cannot be aborted.

12.In the result, this Court is not inclined to entertain the petition and the same is, accordingly, dismissed. Considering the case is of the year 2017 and for the past three years, no investigation could be done, this Court directs the 1st respondent Police to complete the investigation and file a final report, as the case may be, within a period of four months from the date of receipt of a copy of this order. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar
//True Copy//

Sub Assistant Registrar

vv2

To

1.The Inspector of Police,
All Women Police Station,
Sriperumbudur,
Kancheepuram District.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Guruprasad, Advocate, sr no.30734

+1cc to M/s.V.Stalin, Advocate, sr no.30727

Cr1.O.P.No.22090 of 2017

GP (CO)
RMP (23/11/2020)



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