

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 12.12.2019	Delivered on: 03.01.2020
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THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.26606 of 2019
and
Crl.M.P.Nos.14228 and 14229 of 2019

P.Naveen Kumar ... Petitioner
Vs.

1.The Inspector of Police
All Women Police Station
Puducherry - 1.

2.Sheeladevi ... Respondents

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records in C.C.No.28 of 2016 in Crime No.1 of 2015, on the file of the Chief Judicial Magistrate, Puducherry and quash the final report filed against the petitioner.

For Petitioner : Mr. D.Senthilkumar
For Respondents : Mr. V.Balamurugane, for R1
Additional Public Prosecutor
(Pondicherry)
: Mr.S.Murugaboopathi for R2

ORDER

This petition has been filed by accused No.1 to quash the proceedings against him in C.C.No.28 of 2016 on the file of the Chief Judicial Magistrate, Puducherry.

2. The learned counsel for the petitioner has submitted that marriage between the petitioner and the second respondent was solemnized on 04.06.2009 and from that date onwards, the second respondent was engaged in quarrel with the petitioner and his family members and on 01.05.2010 she left the matrimonial home and permanently stayed in her parents' house. He further

submitted that on 10.05.2010 the second respondent came to the petitioner's house and taken back Sridhana articles and thereafter, the mediation made by the relatives and well wishers did not yield any fruitful result and hence the petitioner had filed MOP.No.343 of 2010 before the Family Court at Puducherry for the relief of restitution of conjugal rights. He further submitted that the second respondent did not come forward to lead a marital life and hence the petitioner has allowed the said MOP No.343 of 2010 for dismissal.

3. He further submitted that with a view to take revenge on the petitioner and his family members, after five years, the second respondent had lodged a false complaint before the first respondent police and based on the same, an FIR has been registered in Cr.No.1 of 2015 under Sections 420, 498(A) r/w Section 34 IPC and Section 4 of Dowry Prohibition Act, 1961. He further submitted that the second respondent had filed MOP.No.342 of 2015 before the Family Court at Puducherry and got divorce on 06.01.2016. He further submitted that the petitioner reliably understand that the second respondent herein got married for the second time at Thirupathi and she is leading her life with her second husband. He further submitted that already this Court has quashed the proceedings against the petitioner's parents in CrI.O.P.No.25014 of 2016 by the order dated 22.04.2019 and therefore, he prayed to quash the proceedings against the petitioner herein also in C.C.No.28 of 2016 on the file of the Chief Judicial Magistrate, Puducherry.

4. Per contra, the learned counsel for the second respondent has submitted that the petitioner had cheated the second respondent by saying that he is working in a company namely, Cocobel Private Limited, Chennai. He further submitted that the petitioner has received all the jewels of the second respondent and pledged in a Muthoot Finance Ltd., Kottapalayam Puducherry and spent the said money for his personal expenses. He further submitted that after pledging all the jewels of the second respondent, the petitioner demanded more dowry from the second respondent and hence, the second respondent was forced to lodge a complaint before the Kottapalayam Police Station and only with a view to escape from the said complaint, the petitioner has filed MOP.No.343 of 2010 seeking restitution of conjugal rights and the said MOP.No.343 of 2010 was dismissed for default.

5. He further submitted that during the subsistence of the first marriage with the second respondent, the petitioner had married another woman and for that his parents also helped and hence, the second respondent has lodged another complaint before

the first respondent on 23.01.2015 and based on the same, an FIR has been registered and after investigation, a charge sheet was filed and based on the same, the learned Chief Judicial Magistrate has taken the case on file in C.C.No.28 of 2016 and the same is still pending. He further submitted that already the petitioner's parents have filed CrI.O.P.No.25014 of 2016 to quash the proceedings against them and this Court while quashing the proceedings against them by the order dated 22.04.2019 has observed that the entire allegations are against the petitioner herein and hence, directed the trial Court to dispose of the case within a period of six months from the date of receipt of a copy of the said order and only thereafter, with a view to drag on the proceedings, the petitioner has filed the present petition. He further submitted that the materials collected by the first respondent would clearly show that there is a prima facie case to proceed against the petitioner and therefore, he prayed to dismiss the petition.

6. The learned Additional Public Prosecutor (Puducherry) for the first respondent has adopted the arguments advanced by the learned counsel for the second respondent and he also prayed to dismiss the petition.

7. Admittedly, the petitioner herein had filed MOP.No.343 of 2010 on the file of the Family Court, Puducherry for the relief of restitution of conjugal Rights and the said petition was dismissed for default on 07.03.2012. Subsequently, the second respondent had filed MOP.No.342 of 2015 on the file of the Family Court, Puducherry seeking to dissolve the marriage which was solemnized between the petitioner herein and the second respondent on the ground of cruelty and desertion. In the typed set of papers filed by the petitioner, a xerox copy of the order passed in MOP.No.342 of 2015 dated 06.02.2016 has been enclosed.

8. A perusal of the said order shows that the second respondent herein had filed the said petition by making allegations against the petitioner herein that he cheated her by saying that he was working in Cocobel Limited, as Branch Manager. She also stated that the petitioner herein has pledged her jewels. She also stated that the petitioner herein has demanded from her parents, jewels worth of Rs.1,00,000/- and household articles and also demanded to get the documents of the house which stands in the name of her father. She further stated that she refused to bring the said document and hence, the petitioner herein and his parents had driven her out of the matrimonial house and also stated that the petitioner is having the illegal intimacy with another woman but the petitioner

herein remained absent and was set exparte in the said petition and consequently, the said petition was allowed. So it has to be presumed that the petitioner herein has not denied the allegations made by the second respondent in MOP.No.342 of 2015. Therefore, this Court is of the view that there is a prima facie case to proceed against the petitioner herein. Hence, this Court is not inclined to quash the proceedings against him.

9. In the result, this Criminal Original Petition is dismissed. It is open to the petitioner to take all the defences which are available under the law before the trial Court. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (C.S.III)

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police
All Women Police Station
Puducherry - 1.
- 2.The Additional Public Prosecutor(Puducherry)
High Court, Madras.

+1cc to Mr.A.Tamilvanan, Advocate SR.No.635
+1cc to Mr.D.Senthil Kumar, Advocate Sr.No.1259

AKM/03.01.2020 /4P-5C/

सत्यमेव जयते

Judgment in
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