

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.31129 & 32100 of 2019
Crl.MP.Nos.16934, 18814, 18817 & 17629 of 2019

D.Mani Teja ...Petitioner/Accused No.5
in Crl.O.P.No.31129 of 2019

1. K.Arunprakash
2. A.Kayamboo
3. B.Gandhimathi
4. Abinaya

...Petitioners/Accused
Nos.1 to 4 in Crl.O.P.
No.32100 of 2019

Vs.

1. The State Represented by
The Inspector of Police,
All Womens Police Station,
Tambaram, Chennai.
(Crime No.33/2019)

2. Elaveni
W/o.Arunprakash ... Respondents in both
Crl.O.Ps.

PRAYER in both petitions: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Crime No.33 of 2019 on the file of the Inspector of Police, All Women Police Station, Tambaram, Chennai viz., the first respondent herein and quash the same.

For Petitioners
in both Crl.O.Ps. : Mr.V.Vijayashankar

For Respondents
in both Crl.O.Ps.
For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
For R2 : Mr.S.Vasu

O R D E R

These petitions have been filed to quash the FIR in Crime No.33 of 2019 on the file of the Inspector of Police, All Women Police Station, Tambaram, Chennai, registered for the offences under Sections 498(A), 406, 294(b) and 506(1) of

IPC & Section 4 Dowry Prohibition Act, 1961, as against the petitioners.

2. On the complaint lodged by the second respondent alleging that the first petitioner got married the second respondent on 05.12.2016 and they stayed along with the parents of the first petitioner. Due to their wed lock a male child was born on 19.11.2017. Thereafter, the second respondent was harassed physically and mentally by all the accused persons, since all are residing in joint family. They also demanded more dowry and jewels and gold ornaments were kept in their custody. The first petitioner also used to slapped her on demanding dowry and also scold in filthy language. On receipt of the same the first respondent registered the FIR in Crime No. 33 of 2019 as against 5 persons, in which the petitioners in Crl.O.P.No.32100 of 2019 are arrayed as A1 to A4 and the petitioner in Crl.O.P.No.31129 of 2019 is arrayed as A5.

3. The learned counsel appearing for the petitioners contended that due to misunderstanding between the first petitioner and the second respondent, they got separated and the attempts of reconciliation were not fruitful. Therefore the first petitioner/husband filed petition for restitution of conjugal rights in H.M.O.P.No.878 of 2018 on the file of the Sub Court, Tambaram. He also filed G.W.O.P.No.13 of 2019 for guardianship of his minor child, before the District Court, Chengalpet. Thereafter, the second respondent/defacto complainant lodged complaint before the Tamilnadu State Women's Commission and also concerned Protection Officer. Both the complaints were closed as false and baseless.

4. Further contended that the second respondent filed divorce petition in O.P.No.2016 of 2019 before the VI Additional Family Court, Chennai. She also filed Transfer Civil Miscellaneous Petition in Tr.C.M.P.Nos.418 and 419 of 2019 before this Court to transfer the petitions filed by the first petitioner to the VI Additional Family Court, Chennai. This Court allowed the transfer petitions and transferred the petitions filed by the first petitioner to the VI Additional Family Court, Chennai. In fact, the petitioner also permitted visitation right of his minor child on every first Saturday of the month. While being so, the present complaint has been lodged with false and frivolous allegations.

5. Heard Mr.V.Vijayashankar, learned counsel appearing for the petitioners, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and Mr.S.Vasu, learned counsel appearing for the second respondent.

6. On perusal of records, the allegations made in the divorce petition in H.M.O.P.No.2016 of 2019 are completely different from the allegations made in the present complaint in Crime No.33 of 2019. The complaint lodged only on 25.10.2019 and on perusal of complaint all the allegations are bald and vague and there is no specific allegations as against the petitioners. Further initially the first petitioner filed restitution of conjugal right petition and also filed guardianship petition. The second respondent appeared in both matters and also filed transfer petitions before this Court in Tr.C.M.P.Nos.418 & 419 of 2019 and this Court allowed the petitions and both petitions have been transferred to the VI Additional Family Court, Chennai, to tried along with the divorce petition in O.P.No.2016 of 2019. Therefore, the present FIR is nothing but clear abuse of process of law and only to harass the petitioners, the present FIR has been filed.

7. This Court finds some force in the arguments of the learned counsel appearing for the petitioners and pending of the FIR would not serve any purpose further any more. Further there is absolutely no prima facie case to attract any of the offences alleged by the second respondent herein.

8. In view of the above discussions, both the criminal original petitions are allowed and the FIR in Crime No.33 of 2019 on the file of the Inspector of Police, All Women Police Station, Tambaram, Chennai, is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police,
All Womens Police Station,
Tambaram, Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.

+4cc to Mr.V.Vijay Shankar, Advocate, S.R.Nos.22056 & 22057

+2cc to Mr.S.Vasu, Advocate, S.R.No.22404

Cr1.O.P.Nos.31129 & 32100 of 2019
Cr1.MP.Nos.16934, 18814, 18817& 17629 of 2019

NRJK(CO)

RSI(21/05/2020)