



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

CrI.O.P. (MD)No.8100 of 2020
and CrI.M.P. (MD)Nos.3856 & 3857 of 2020

1.O.Mayandi
2.M.Shanthi

... Petitioners/Accused Nos.2 & 3

Vs.

1.The State Represented by
The Inspector of Police,
All Women Police Station,
Usilampatti.
(Crime No.33 of 2014)

... Respondent/Complainant

2.S.Anitha

... Respondents/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the charge sheet in C.C.No.21 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Usilampatti and quash as against the petitioners, the same as illegal.

For Petitioners : Mr.K.Pandiarajan
For R-1 : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate(CrI.side)

ORDER

This criminal original petition has been filed seeking the relief of call for the records relating to the charge sheet in C.C.No.21 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Usilampatti and quash the same as against the petitioners, as illegal.

2.The learned counsel appearing for the petitioners would submit that in earlier, the first respondent police without made an enquiry in respect to the real dispute having by the petitioners and the second respondent, registered FIR in crime No.33 of 2014 for the offence under Sections 494, 498(A), 417, 420, 342 IPC r/w Section 4 of Dowry Prohibition Act. Subsequently, without examining independent witnesses, he completed the investigation and filed the final report before the learned District Munsif cum Judicial Magistrate, Usilampatti. He would further submit that in FIR and the charge sheet, it is stated that all the accused and the second respondent herein were lived together as joint family at the



residence of the first petitioner at Sourashtra Nagar, Choolaimedu, Chennai whereas A1 and the second respondent herein lived in a separate house situated at No.11/620, J.J.Nagar, Mugappair (East), Chennai and as an evidence, the rental agreement, dated 06.03.2013 was also filed before this Court. Further, as per the final report, the alleged occurrence had took place at Chennai in the residence of A1/Senthilkumar, who is the husband of the second respondent. According to the petitioners, final report filed by the first respondent police is clear abuse of process of law and therefore, the prayer sought for by the petitioner has to be considered.

3.The learned Additional Public Prosecutor appearing for the first respondent would submit that after registering FIR, the first respondent police examined nine witnesses and only after recording 161 statements, he came to a positive conclusion that the petitioners herein committed the offence punishable under Sections 494, 498(A), 417, 420, 342 IPC r/w Section 4 of Dowry Prohibition Act. Further, on going through 161 statements of the witnesses, it is made clear that the occurrence had happened as stated by the second respondent.

4.In the said circumstances, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **SAU. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others in Crl. Appeal No.255 of 2019**, wherein our Hon'ble Apex Court has held as follows :

"Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same."

Hence, applying the principles set out by the Hon'ble Supreme Court, as per the contention raised by the learned Additional Public Prosecutor that the case in C.C.No.21 of 2017 has been posted for examination of the witnesses and therefore, in my considered view that the petitioners have not indicated the circumstances, to prove that the charge sheet in C.C. No. 21 of 2017 lacks jurisdiction and also it is an abuse of process of law. Without marking document as alleged by the petitioners, it cannot be said that previous to the occurrence, the second respondent and her husband was resided at Chennai. Therefore, in any aspect, the petition filed by the petitioners is devoid of merits and thereby, it is liable to be dismissed.



5.In view of the above discussions, this criminal original petition is dismissed. However, considering the fact that the case in C.C.No.21 of 2017 is pending from the year 2017, the learned District Munsif cum Judicial Magistrate, Usilampatti is directed to dispose the case in C.C.No.21 of 2017, within a period of five months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar(LA & M)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Munsif cum Judicial Magistrate,
Usilampatti.
- 2.The Inspector of Police,
All Women Police Station,
Usilampatti.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD)No.8100 of 2020
04.08.2020

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