



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.08.2020**

CORAM:

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

Crl.O.P. (MD) No.8214 of 2020
and
Crl.M.P. (MD) No.3899 of 2020

M. Murugan (M, 34/20)

S/o. Muthaiya

... Petitioner/Accused No.1

Vs.

1. The State Rep. by

The Inspector of Police,
All Women Police Station,

Paramakudi, Ramanathapuram District,

(Crime No. 6 of 2020). ... Respondent No.1/De jure Complainant

2. P. Mahalakshmi

... Respondent No.2/Defacto complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records connected with the case in Crime No.6 of 2020 registered on the file of the first Respondent and Quash the same as illegal insofar as it relates to the petitioner.

For Petitioner : Mr.I.Sabeer Mohamed

For Respondent No.1 : Mr.APG.Ohm Chairma Prabhu

Government Advocate

O R D E R

This petition has been filed to quash the First Information Report registered in Crime No.6 of 2020 for the offence under Sections 406, 498(A) and 506(i) of IPC and Section 4 of Dowry Prohibition Act, on the file of the first respondent police.

2.The learned counsel appearing for the petitioner would submit that the petitioner and the second respondent are husband and wife. The marriage between the petitioner and the second respondent was solemnized on 08.06.2014. After the marriage, the second respondent / de-facto complainant gave birth to two children.



Whereafter, due to the dispute arose between the petitioner and the second respondent, the second respondent left the matrimonial home. In the mean while, the petitioner filed a divorce petition in HMOP No.50 of 2019, which was pending on the file of the Sub Court, Paramakudi, Ramanathapuram District. Due to the filing of the divorce application by the petitioner, the second respondent in order to take vengeance, lodged a false complaint before the first respondent police and however, the first respondent had not taken any steps for registering the case. The second respondent approached this Court for registering the First Information Report. Therefore, due to the intervention of this Court, the impugned First Information Report in Crime No.6 of 2020 has been registered against the petitioner and the same is pending for enquiry. In the said circumstances, the petitioner has filed this petition, to quash the First Information Report, as the same was registered for taking vengeance against the petitioner.

3.Mr.APG.Ohm Chairma Prabhu, learned Government Advocate appearing on behalf of the first respondent, on instructions, would submit that the impugned First Information Report has been registered only as per the direction given by this Court in Crl. R.C.No.888 of 2019. Therefore, it cannot be said that the said First Information Report has been registered with false averments.

4.Upon considering the arguments advanced by either side, it is true only by the intervention of this Court, the alleged First Information Report has been registered by the first respondent. It is seen from the averments made in the First Information Report that during the time of occurrence the petitioner and others committed cruelty towards the second respondent specifically for getting more dowry.

5.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."

So applying the principle set out by our Hon'ble Apex Court, in this case the averments found in the First Information Report had clearly established the cognizable offence and therefore, I am of the considered opinion that the First Information Report registered by the first respondent cannot be said that the same is frivolous and



vexatious. Therefore, this is not the stage to quash the said First Information Report. Accordingly, this petition is liable to be dismissed. However, the first respondent police is directed to follow the judgment of our Hon'ble Apex Court in the case of **Arnesh Kumar Vs. State of Bihar** reported in **2014 (8) SCC 273**, during the time of investigation.

6.In view of the above discussion, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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 Inspector of Police,
All Women Police Station,
Paramakudi, Ramanathapuram District,

Copy to:

- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CrI.O.P.[MD]No.8214 of 2020
06.08.2020

RM

SDS (18.08.2020) 3P-3C