



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.08.2020**

CORAM:

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

Crl.O.P.(MD)No.8475 of 2020

and

Crl.M.P.(MD)No.4021 of 2020

WEB COPY

1.S.Ambika

2.M.Subramanian @ Subramani

... Petitioners/A6& A7

Vs.

1. The State Rep. by

The Inspector of Police,

All Women Police Station,

Paramakudi, Ramanathapuram District.

(Crime No. 6 of 2020).

...1st Respondent/ De jure
Complainant

2.P.Mahalakshmi

...2nd Respondent/
De-facto 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 petitioners.

For Petitioners

: Mr.I.Sabeer Mohamed

For R1

: Mr.APG.Ohm Chairma Prabhu

Government Advocate (Crl. side)

ORDER

This petition has been filed to quash the First Information Report registered in Crime No.6 of 2020, for the offences 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 petitioners would submit that the first petitioner is the elder sister of the first accused and the second petitioner is the husband of the first petitioner. The marriage between the first accused and the second respondent was solemnized on 08.06.2014. After the marriage, the second respondent/de-facto complainant gave birth to two children.



Thereafter, due to some dispute, the second respondent left the matrimonial home. In the meanwhile, the first accused/first petitioner's brother filed a divorce petition in H.M.O.P. No.50 of 2019, which was pending on the file of the Sub-Court, Paramakudi, Ramanathapuram District. In order to wreak vengeance, the second respondent lodged a false complaint before the first respondent police and however, the first respondent had not taken any steps for registering the case. Therefore, the second respondent approached this Court for registering the First Information Report. Thereafter, due to intervention of this Court, the impugned First Information Report in Crime No.6 of 2020 has been registered against the petitioners and others and the same is pending for investigation. In the said circumstances, the petitioners have filed this petition, to quash the First Information Report, as the same was registered for taking vengeance against them.

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 dated 16.03.2020, in Crl.R.C.(MD)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 the learned counsels appearing on 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 petitioners 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 Pokarnekhar Vs. The State of Maharashtra and others [Criminal Appeal No.255 of 2019, dated 12.02.2019]**, wherein it has been held as follows:-

'5.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 above said principle set out by our Hon'ble Apex Court to the case on hand, I am of the view that the averments found in the First Information Report had clearly established the cognizable offence and therefore, the First Information Report



registered by the first respondent cannot be a frivolous and vexatious one. Hence, 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)

smn2

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.

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

Crl.O.P.[MD]No.8475 of 2020
17.08.2020

KM (27.08.2020) 3P 3C