



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.8807 of 2020

and

Cr1.M.P. (MD)Nos.4147 and 4148 of 2020

WEB COPY

1.Deivendran,
2.Packiam,
3.Muthupandi,

... Petitioners/Accused No.2 to 4
Vs.

1.State Rep. by
The Inspector of Police,
All Women Police Station,
Manamadurai, Sivagangai District.
(Crime No.17 of 2018)

... 1st Respondent/Complainant

2.Deepa,

...2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to the charge sheet in C.C.No.8 of 2020, on the file of the District Munsif-cum-Judicial Magistrate Court, Thiruppuvanam, Sivagangai District and quash the same as against the petitioners herein alone.

For Petitioners : Mr.R.Saravanan

For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings against the petitioners in C.C.No.8 of 2020, on the file of the District Munsif-cum-Judicial Magistrate Court, Thiruppuvanam, Sivagangai District.

2.The petitioners are in-laws of the second respondent/de-facto complainant.

3.A perusal of the averments made in the final report filed by the first respondent police shows that during the matrimonial life, the petitioners herein have caused cruelty to the second respondent/de-facto complainant and also abused her by using filthy language.

4.Further, a perusal of the 161(3) Cr.P.C. statement given by the witnesses, who are all examined by the investigation officer, discloses that *prima facie* offences that are alleged against the



petitioners herein. Further, the said offences are cognizable in nature. The correctness or otherwise of the said allegations has to be decided only in the Trial.

5. At this juncture, 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 [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.

9. A perusal of the complaint discloses that prima facie offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted.'

So, applying the above said principle set out by our Hon'ble Apex Court to the case on hand, this Court is of the view that the only issue, which has to be decided, is purely based on the factual aspects. In otherwise, the learned counsel appearing for the petitioners did not indicate any abuse of process committed by the police officers. In the said circumstances, there is no reason to interfere with the trial proceedings in C.C.No.8 of 2020, on the file of the District Munsif-cum-Judicial Magistrate Court, Thiruppuvanam, Sivagangai District.

6. With the above observation, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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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,
Thiruppuvanam, Sivagangai District.
- 2.The Inspector of Police,
All Women Police Station,
Manamadurai, Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SPU (07.09.2020) 3P 4C