



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL.OP (MD)No.13630 of 2020

and

CRL.M.P (MD)Nos.6270 and 6273 of 2020

1)Deivanai
2)Nachiappan

... Petitioners/Accused Nos.1 and 2
vs.

1)State Rep.by
The Inspector of Police,
Pallathur Police Station,
Pallathur,
Sivagangai District.
(Crime No.52 of 2016)

...1st Respondent/Complainant

2)Muthu Ganesan

...2nd Respondent/Defacto
Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet in P.R.C.No.12 of 2019 on the file of the Principal District Munsif cum Judicial Magistrate Court, Karaikudi, Sivagangai, till the disposal of the main criminal petition and quash the same.

For Petitioners : Mr.PR.Boomee Rajan
For R1 : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records pertaining to the charge sheet in P.R.C.No.12 of 2019 on the file of the Principal District Munsif cum Judicial Magistrate Court, Karaikudi, Sivagangai, and quash the same.

2.The allegation against the petitioners who are mother-in-law and husband of the deceased is that the petitioners demanded dowry along with cruelty and due to the same, the wife of the 2nd petitioner namely, Ramayee committed suicide by jumping into the well and died. Therefore, a case in Crime No.52 of 2016 for the offences under Sections 174 Cr.P.C @ 304 (B) of IPC was registered against the petitioners. After investigation, charge sheet has been filed and the same has been taken on file in PRC.No.12 of 2019.



3.The learned counsel for the petitioners would state that there was no eye witness available and all the 161(3) statements are prepared by the Police. Originally, the offence made out was under Section 309 IPC but without proper investigation, the case was altered to Section 304(B) IPC. He would further state that PW5 to PW7 who are all private witness have stated that the petitioners had not demanded dowry and therefore, the offence is not made out. Thus, he would pray for quashing of the charge sheet.

4.The learned Additional Public Prosecutor would state that the petitioners were charged for the offences under Section 304(B) IPC and the grounds raised in this petition can be proved only in a full-fledged trial and therefore, the interference of this Court is not necessary.

5.Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor. In view of the order going to be passed, notice to the 2nd respondent is not necessary.

6.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

7.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioners and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial and the petitioners are at liberty to raise the grounds in this petition before the trial Court. However, considering the age of the 1st petitioner, her personal appearance before the trial Court is dispensed with except during the dates on which, the learned Judge insists her appearance if it is necessary. Considering the facts and circumstances of the case, the learned Principal District Munsif cum Judicial Magistrate Court, Karaikudi, Sivagangai, is directed to conclude the entire trial proceedings within a period of six months from the date of receipt of a copy of this order.



WEB COPY

8. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

1) The Principal District Munsif cum
Judicial Magistrate, Karaikudi,
Sivagangai.

2) The Inspector of Police,
Pallathur Police Station,
Pallathur, Sivagangai District.

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

+1 CC to Mr. PR. BOOMEE RAJAN, Advocate (SR-23415[F] dated 01/12/2020)

ORDER MADE IN
Cr1.O.P. (MD) No. 13630 of 2020
DATED : 30.11.2020

DKS (CO)
KM (14.12.2020) 3P 5C