



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL.O.P.(MD)No.13607 of 2020

and

CRL(MD)Nos.6242 and 6243 of 2020

WEB COPY

1) Lakshmi
2) Narayanan
3) Ramalakshmi

... Petitioners

vs.

S.Sona

... Respondent

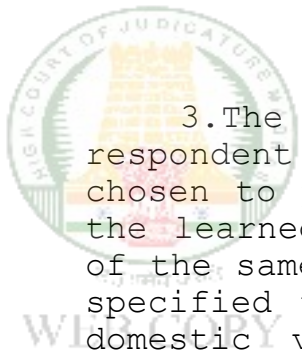
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in DVC.No.22 of 2020 on the file of the learned Judicial Magistrate, Karaikudi, Sivagangai District, and quash the same against the petitioners concerned.

For Petitioners : Mr.S.Balaji

O R D E R

This Criminal Original Petition has been filed to call for the entire records pertaining to the case in DVC.No.22 of 2020 on the file of the learned Judicial Magistrate, Karaikudi, Sivagangai District, and quash the same against the petitioners concerned.

2.The petitioners would state that they are mother-in-law, father-in-law and sister-in-law respectively of the respondent. On 02.12.2019, the marriage was taken place between the son of the 1st petitioner and the respondent. It is alleged that in connection with the said marriage, 10 sovereigns of gold were given to the respondent and 5 sovereigns of gold were given to her husband as dowry by the parents of the respondent and the respondent and her husband were leading life with petitioners as joint family. While so, the petitioners and the respondent's husband are said to have harassed and humiliated her and further demanded dowry of Rs.10,00,000/- from the respondent and when she refused to do so, she is said to have been harassed and humiliated by the petitioners and her husband and when the respondent fell ill, it is alleged that the petitioners did not take care her and her mother only had taken care. Therefore, the respondent has filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate, Karaikudi, Sivagangai District in D.V.C.No.22 of 2020.



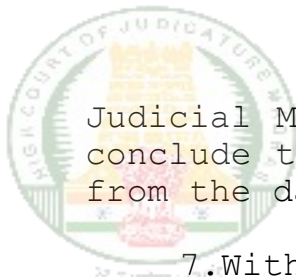
3.The learned counsel for the petitioners would state that the respondent instead of filing her complaint in proper format, has chosen to present the same in the form of affidavit and therefore, the learned Judicial Magistrate ought not to have taken cognizance of the same. Further, nowhere in the complaint, the respondent has specified the events which creates cause of action for the act of domestic violence and no specific date, time as well as the witnesses in whose presence, such act of domestic violence was taken place, were mentioned in the complaint and therefore, the case of causing domestic violence is not made out. He would further state that in the period during which, the domestic violence is said to have been caused, the petitioners were not with the respondent and the respondent had wantonly roped them in the above proceedings. Even before the present complaint, the husband of the respondent filed divorce petition in HMOP.No.74 of 2020 before the Sub Court, Devakottai, and therefore, filing of the present domestic violence complaint is only vindictive. Thus, he would pray to quash the entire proceedings in DVC.No.22 of 2020 on the file of the learned Judicial Magistrate, Karaikudi, Sivagangai District.

4.Heard the learned counsel for the petitioners and perused the materials available on record. In view of the order going to be passed, notice to the respondent is not necessary.

5.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.'

6.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 facts and circumstance of the case, the personal appearance of the petitioners before the trial Court is dispensed with except during the dates on which, the learned Judicial Magistrate insists their appearance if it is necessary. The learned



Judicial Magistrate, Karaikudi, Sivagangai District, 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.

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

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

bala

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 Judicial Magistrate,
Karaikudi,
Sivagangai District.
- 2) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
Crl.O.P.(MD)No.13607 of 2020
DATED : 30.11.2020

SJ(CO)
CS(14.12.2020) 3P 3C