



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2020

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THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

Crl.O.P. (MD)No.14522 of 2020

and

Crl.M.P. (MD)No.6828 & 6830 of 2020

1.Tamil Selvi
2.Muthusamy
3.Thanga Thamarai
4.Petchiyammal @
Arivalagi

... Petitioners

Vs.

1.Anusuya
2.Minor Kanshika
3.Minor Harish

... Respondents

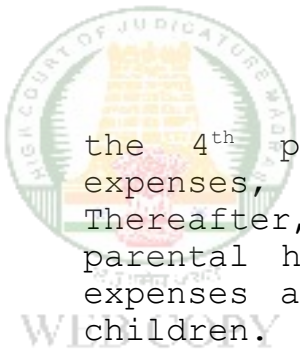
Prayer : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in D.V.C.No.19 of 2020 on the file of the Judicial Magistrate Court, Theni, Theni District and quash the same.

For Petitioners : Mr.R.Suriyanarayanan

ORDER

This criminal original petition has been filed to quash the proceedings in D.V.C.No.19 of 2020 on the file of the Judicial Magistrate Court, Theni, Theni District.

2.The allegations in the above DVC case are that the marriage between the 1st respondent and on Elango who is the 1st respondent in DVC case, was solemnized on 26.08.2002 at Bodinayakanur, Theni District and out of the wedlock, the respondents 2 and 3 herein were born. The said Elango has tortured the 1st respondent from the day on by demanding dowry and the 4th petitioner/mother-in-law detained the jewels of the 1st respondent in her custody and refused to return the same to the 1st respondent. Since the husband of the 1st respondent serving in Indian Army, they were leading their matrimonial life at Delhi and thereafter at Secundrabad. After the birth of two children, the 1st respondent went to the house of the 4th petitioner who had harassed her on many occasions and the husband of the 1st respondent instructed the 1st respondent to get money for day-to-day expenses from her mother-in-law/4th petitioner and since



the 4th petitioner was demanding accounts for the day-to-day expenses, the 1st respondent obtained money from her mother. Thereafter, since her mother fell ill, the 1st respondent went to her parental home and her husband sent Rs.2,500/- per month for her expenses and used to visit her parental home to see her and the children.

3.It is further averred that at the instigation of her husband, the 1st respondent has pledged her jewels and handed over money to her husband who did not redeem the jewels later and her husband retained Rs.5,00,000/- received as gift during the ear boring ceremony of the children and the further sum of Rs.9,00,000/- received as gift during the family function with himself. Thereafter, the 1st respondent and her husband shifted their residence at Theni, for which, the 1st respondent borrowed Rs.3,00,000/- from her mother and without the knowledge of the 1st respondent, her husband had given the house property in favour of his brother and by pledging her jewels, the 1st respondent gave money to his brother's wife for lending the same to many persons for interest. It is also averred that the husband of the 1st respondent used to go to the house of the 1st petitioner who is already married and developed illicit intimacy with her and used to talk to her over phone which resulted in a dispute between the 1st respondent and her husband. In this regard, the 1st respondent gave a complaint before All Women Police Station, Theni. The husband of the 1st respondent also filed HMOP.No.249/2019 against the 1st respondent for divorce and the 1st petitioner also filed HMOP.No.338/2017 against her husband for divorce, with an intention to live with the husband of the 1st respondent. With the above background, the above DVC case has been filed.

4.The learned counsel for the petitioners would state that in the complaint, there is no specific allegation as against the petitioners herein and the allegations set out in the complaint are only against the husband of the 1st respondent. Thus, he would pray to quash the DVC case as against the petitioners.

5.Heard the learned counsel for the petitioners. In view of the order going to be passed, notice to the respondents is not necessary.

6.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 has also 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, which has been echoed in the judgment of 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.

7. Here in the present case, the 1st respondent has made specific allegations in the DVC case against the petitioners herein stating that she faced harassment at the hands of her mother-in-law/4th petitioner and her husband obtained money by pledging her jewels and gave it to the petitioners 2 and 3 for lending money to many persons for interest and the husband of the 1st respondent has illegal intimacy with the 1st petitioner, for which, he filed a divorce petition against the 1st respondent and the 1st petitioner also filed a divorce petition against her husband and both the petitions are pending. Therefore, it is too early to interfere with the DVC case and the above allegations can be gone into only during trial. However, considering the age of the 4th petitioner, her personal appearance before the trial Court is dispensed with except during the dated on which, the learned Judge insists her appearance if it is necessary. Considering the facts and circumstances of the case, the Judicial Magistrate, Theni District is directed to conclude the trial proceedings and dispose of the case in DVC.No.19/2020 within a period of six months from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Gns

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

The Judicial Magistrate Court,
Theni, Theni District.

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