



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P. (MD)No.15004 of 2020

and

Crl.MP(MD) Nos.7189 & 7191 of 2020

1.R.Vinod
2.C.Ravichandran
3.R.Santhi

...Petitioners/Respondents
Vs.

1.V.Subadevi
2.Minor V.Ashik

(2nd respondent rep by mother & next friend

1st respondent) ...Respondent/Petitioners

Prayer: This Criminal Original petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to D.V.C.No.1 of 2020 on the file of the Judicial Magistrate, Andipatty and quash the same as illegal.

For Petitioner : Mr.K.Appadurai

O R D E R

This Criminal Original Petition has been filed to quash the case in D.V.C.No.1 of 2020 on the file of the Judicial Magistrate, Andipatty.

2. The learned counsel for the petitioners would submit that the 1st petitioner and the 1st respondent are husband and wife and the second respondent is their child. The case of the 1st respondent before the Court below is that the marriage between her and the 1st petitioner was a second marriage performed on 01.11.2017. Since the 1st petitioner was working in Chennai, she also joined with him at Chennai. Thereafter, the attitude of the 1st petitioner changed and he had been regularly talking with women overphone and harassed the 1st respondent physically and mentally. The further allegation is that the petitioners demanded dowry from the 1st respondent. Based on the complaint given by the 1st respondent, DVC No.1 of 2020 was filed before the Judicial Magistrate Court, Andipatty and the 1st respondent also filed Cr.M.P.No.2060 of 2020 in the above said DVC, wherein the trial Court granted an ex-parte order of interim maintenance directing the 1st petitioner to pay Rs.4000/- to the respondents.



2.1. According to the petitioners, after the marriage between the 1st petitioner and the 1st respondent, they lived in Chennai, where the 1st respondent conceived, Valaikattu function was performed by the petitioners and she was sent to her parents home for delivery. Later on, when she came back to the matrimonial home, she did not respect the parents and relatives of the 1st petitioner. The 1st respondent demanded a sum of Rs.5,00,000/- from the petitioner for her brother's marriage, which was refused by the 1st petitioner, she was getting agitated over the same and she went to her parents home by angry, taking all her jewels and she filed a false complaint against the petitioners, which resulted in registration of D.V.C.No.1 of 2020. Hence, the learned counsel for the petitioners would pray to quash the above case.

3. Heard the learned counsel for the petitioners and perused the materials available on record. Since no adverse order is going to be passed, notice to the respondents is dispensed with.

4. 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.'

5. 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. Considering the facts and circumstances of the case, this Court is not inclined to quash the proceedings in D.V.C.No.1 of 2020 on the file of the Judicial Magistrate Court, Andipatty. However, there shall be a direction to the learned Judicial Magistrate, Andipatty to dispose of the case in D.V.C.No.1 of 2020, within a period of three months from the date of receipt of a copy of this order. However, the personal appearance of the 2nd and 3rd petitioners before the trial Court is dispensed with, except on the date that the learned Judicial Magistrate insists their presence.



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

Sd/-

Assistant Registrar

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/ /2021

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 Judicial Magistrate, Andipatty
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Registrar(Judicial),
Madurai Bench of Madras High Court, Madurai.

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