



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD) No.11518 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

1.Subitha

2.Rajan

... Petitioners/Accused 4 & 5

Vs

1.The State

Rep. by its Inspector of Police,

All Women Police Station,

Kanyakumari Police Station,

Kanyakumari District.

(In Crime No.8/2015)

...1st Respondent / Complainant

2.P.Lakshmi Prabha

... 2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records of the case in C.C.No.259 of 2014 on the file of the learned Judicial Magistrate No.III, Nagercoil and quash the same as illegal.

For Petitioners: Mr.C.Kishore

For R1 : Mr.A.Robinson

Government Advocate (Crl.side)

For R2 : Mr.L.George Paul Anto

ORDER

Heard the learned counsel on either side.

2.The petitioners are shown as accused Nos.4 and 5 in C.C.No.259 of 2014 on the file of the Judicial Magistrate No.III, Nagecoil for the offences under Sections 498(A), 406 of IPC r/w Section 4 of Prevention of Women Harassment Act.

3.The first petitioner is the sister-in-law of the defacto complainant. The second petitioner is the husband of the first petitioner. The second respondent got married to Sundarlingam brother of the first petitioner herein on 01.06.2012. The marital relationship had come under strain. The second respondent filed a criminal case against the husband and in-laws and the same was registered as Crime No.8 of 2014 on the file of the All Women Police Station, Kanyakumari District. The case was investigated and final report was laid against as many as five persons. The first accused was the husband. The second and third accused were the parents-in-laws. Fourth accused is the sister-in-law. Fifth accused is the husband of the fourth accused. Cognizance of the offences were taken and summons were issued. To quash the same insofar as they are concerned, this criminal original petition has been filed.

4.When the matter was taken up for final hearing, it was



submitted that Al-Sundarlingam filed H.M.O.P.No.96 of 2014 before the Principal Sub Court, Nagercoil and the same was allowed on 28.06.2017. It is not in dispute that the order dissolving the marriage between Sundarlingam and the second respondent herein had become final. In fact, both the parties are said to have remarried also.

5. In these circumstances, the continuation of the earlier criminal proceedings does not appear to be warranted. In any event, it ought not to be continued against the present petitioners herein. Only general allegations have been made against the petitioners herein. They were never part of the matrimonial home. The first petitioner is said to have got married to the second petitioner even prior to the marriage took place between Sundarlingam and the second respondent herein. Therefore, I hold that the continuation of the impugned prosecution as against the petitioners is an abuse of legal process. Hence, the impugned proceedings are quashed as far as they are concerned. This criminal original petition stands allowed. Consequently, connected miscellaneous petitions are allowed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
All Women Police Station,
Kanyakumari Police Station,
Kanyakumari District.

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

3. The Judicial Magistrate No.III, Nagercoil.

+1 CC to M/s.C.KISHORE, Advocate (SR-4651[F] dated 04/02/2020)

+1 CC to M/s.GEOREGE PAUL AUTO, Advocate (SR-4938[F])

Cr1.O.P (MD) No.11518 of 2015
and
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SMA/02/06/2020/2P/6C