



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**Crl OP(MD)No.13927 of 2016
and
Crl MP(MD)No.6505 of 2016**

Pragita ... Petitioner /Accused No.4

Vs.

1.D.Sumathy ... Respondent/Defacto complainant

2.The Inspector of Police,
All Women Police Station,
Madurai Town, Madurai. ... Respondent / Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the charge sheet in C.C No.46 of 2016 and quash the same pending on the file of the Additional Mahila Court, Madurai.

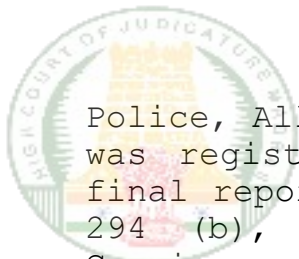
For petitioner : Mr.R.Ramasamy

For Respondent No.1 : No appearance

For Respondent No.2 : Mr.A.Robinson,
Government Advocate (crl.side) for R2

ORDER

The petitioner herein is shown as fourth accused in C.C No.46 of 2016 on the file of the Additional Mahila Court, Madurai for the offences under Sections 498 A, 406, 294 (b), 506(i) IPC and Section 4 of Dowry Prohibition Act. The first respondent herein is the defacto complainant. The case of the first respondent is that she got married to one Sheril Shibu on 02.10.2014 at Madurai. The defacto complainant lived as a joint family along with her husband and in-laws. The specific allegation of the defacto complainant is that she was physically harassed and that there were demands for bringing additional dowry. The defacto complainant in her complaint had set out the particulars of cruelty perpetrated to her. The defacto complainant lodged a complaint before the Inspector of



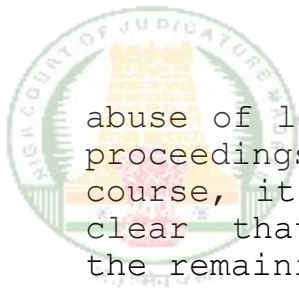
Police, All Women Police Station, Madurai Town, Madurai and the same was registered in Crime No.18 of 2015. It was investigated and final report was filed for the offences under Sections 498 A, 406, 294 (b), 506(i) IPC and Section 4 of Dowry Prohibition Act. Cognizance of the offences was taken and summons were issued to the accused. To quash the same, this criminal original petition has been filed by the fourth accused.

2. Even though the defacto complainant has been served and she has entered appearance through her counsel, there is no appearance on her behalf. The learned Government Advocate (crl.side) appearing for the second respondent submitted that in this case the trial had already commenced and six witnesses have already been examined and that therefore, this Court will not be justified in exercising its jurisdiction under Section 482 of Cr.PC.

3. I must agree with the submission made by the learned Government Counsel that when the trial has commenced, the question of quashing the proceedings will normally not arise. But, the learned counsel for the petitioner pleaded that the main accused, namely, the husband and parents in-law (A1 to A3) are very much facing the trial and that it is only the sister in-law who seeks relief. He also pointed out that at no point of time, the petitioner was a part of the shared household. The petitioner got married long prior to the marriage between the defacto complainant and the first accused. The petitioner was then residing in Bangalore and she is presently abroad. The counsel pointed out that on account of the impugned criminal prosecution, the petitioner's marital life is under considerable stress.

4. I carefully went through the materials on record. The only allegation made by the defacto complainant against the petitioner is that the petitioner spoke to her over phone and called upon the defacto complainant to take divorce from the first accused who is the younger brother of the petitioner herein. Except this, there is absolutely no other allegation against the petitioner. Even the defacto complainant has not stated as to when the petitioner had such offending conversation. The learned counsel for the petitioner would point out that the allegation against the petitioner is without any basis.

5. On a perusal of the entire materials on record, it is noted that the primary allegations have been made only against her husband and her parents in-law. The criminal original petition was filed way back in the year August 2016. This Court had admitted this O.P and dispensed with the personal appearance of the petitioner also. The trial had commenced only during the pendency of this petition. In as much as the trial had commenced during the pendency of this O.P and considering the nature of allegations made against the petitioner, I am of the view that the continuance of the impugned proceedings against the petitioner can only be characterised as an



abuse of legal process. In this view of the matter, the impugned proceedings stand quashed as far as the petitioner is concerned. Of course, it will go on against the remaining accused. It is made clear that the benefit of this order will not enure in favour of the remaining three accused.

6.The criminal original petition is allowed on these terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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To

- 1.The Inspector of Police, All Women Police Station,
Madurai Town, Madurai.
- 2.The Additional Mahila Court Judge, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of the Madras High Court, Madurai.

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JMN(25.02.2020) 3P : 4C