



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 01.12.2020

CORAM:

The Hon'ble Mr. Justice **G.K. ILANTHIRAIYAN**

Crl.O.P(MD)No.14417 of 2016

and

Crl.M.P(MD)Nos.6748 and 6749 of 2016

WEB COPY

- 1.Arulkumar
- 2.Jeyamani
- 3.Chandrasekaran
- 4.Pon Ramaraj @ Ponram Rajaa
- 5.Arulgani @ Arulkauni Rajaa ... Petitioners/Accused Nos.1 to 5

Vs.

- 1.State Rep. by
The Inspector of Police,
All Women Police Station,
Bodinayakanaur,
Theni District.
(Crime No.8 of 2015) ...1st Respondent/Complainant

- 2.Veena ...2nd Respondent/Defacto Complainant

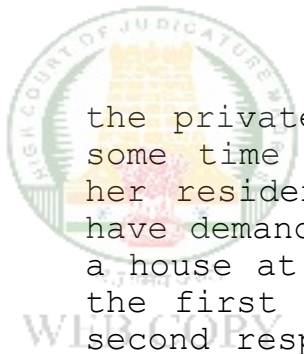
PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in C.C.No.114 of 2015 on the file of the Judicial Magistrate, Bodinayakanur and quash the same and pass such further or other order as this Hon'ble Court may deem fit and proper.

For Petitioners:Mr.S.Ramasamy
For R1 :Mr.R.Erottuchamy
Government Advocate (Crl. Side)
For R2 :Mr.K.Guhan

O R D E R

This petition has been filed to quash the proceedings C.C.No.114 of 2015 on the file of the learned Judicial Magistrate, Bodinayakanur, as against the petitioners.

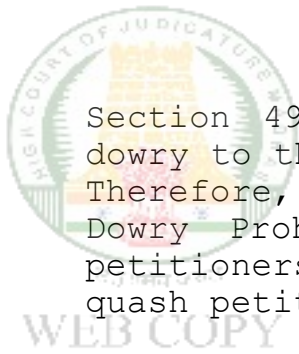
2.The learned counsel appearing for the petitioners would submit that on the complaint lodged by the second petitioner, the first respondent has registered the FIR in Crime No.8 of 2015 for the offence under Sections 498(A), 417, 120(b) IPC r/w Section 4 of Dowry Prohibition Act r/w 109 & 34 IPC. In the complaint, the second respondent alleged that the marriage took place between the first accused and the second respondent on 03.12.2012. During their marriage, the second respondent's parents presented 25 sovereigns of jewels and also house hold articles worth about Rs.1.5 lakhs. On 20.01.2013 the first accused went Singapore, where he was working in



the private company and thereafter the second respondent stayed in some time at Sillamarathupatti Village and thereafter she shifted her residence in Chennai. While being so, the 4th and 5th accused have demanded a sum of Rs.40,00,000/- as dowry in order to purchase a house at Singapore to settle her with the first accused. Further the first accused has also demanded a sum of Rs.40 lakhs from the second respondent through phone. Further it is alleged that prior to the marriage, the first accused had some kidney ailment and the same was suppressed to the second respondent herein. Thereby, all the accused persons conspired together and cheated the second respondent herein. After completion of investigation, the first respondent has filed the final report only for the offence under Sections 498(A) IPC and Section 4 of Dowry Prohibition Act and the same was taken on file in C.C.No.114 of 2015 and cognizance was also taken.

3.He further submitted that the first accused is the husband of the second respondent herein and the second accused is the mother of the first accused and the third accused is the second accused sister's husband and the 4th and the 5th accused are uncle and aunt of the first accused. He further submitted that except the allegation that the 4th and the 5th accused demanded a sum of Rs.40,00,000/- as dowry in order to purchase of the house at Singapore by the 4th and the 5th accused herein. There is absolutely no material to attract the said offence under Section 498(A) of IPC as well as Section Section 4 of Dowry Prohibition Act. There is no specific averment with regard to the cruelty meted out the second respondent at the hands of the petitioners. He further submitted that the first petitioner after filed a divorce petition in H.M.O.PNo.96 of 2015 and the same is pending on the file of the Sub-Court, Theni. In fact, the second respondent has also filed a petition for Restitute of Conjugal Rights in H.M.O.P.No.105 of 2016 and the same is also pending on the file of the same Court. After filing the present complaint, the second respondent has also filed a complaint under the Domestic Violence Act as against the first accused and others in M.C.No.24 of 2015 on the filed of the learned Judicial Magistrate, Podinaiyakanoor. Therefore, all the proceedings are nothing but clearly an abuse of process of law and only to harass the petitioners, the second respondent has lodged so many complaints and also initiated the proceedings before the Family Court. Hence, he prayed for quashing the entire proceedings.

4.Per contra, the learned counsel appearing for the second respondent would contended that she got married with the first accused on 03.12.2012 and During their marriage, the second respondent's parents presented 25 sovereigns of jewels and also house hold articles worth about Rs.1.5 lakhs. Thereafter, the first accused left with her wife and went to Singapore. Thereafter all the accused have demanded a sum of Rs.40 lakhs to get back the defacto complainant to Singapore. Thereby, all the accused harassed the second respondent and they have committed the offence under

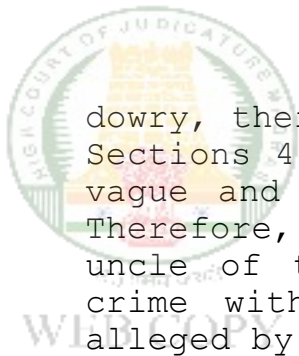


Section 498(A) IPC. All the accused also jointly demanded huge dowry to the tune of Rs.40 lakhs to purchase the house at Singapore. Therefore, all the accused committed the offence under Section 4 of Dowry Prohibition Act. Therefore, the grounds raised by the petitioners cannot be considered and prayed for dismissal of the quash petition.

5.The learned Government Advocate (Crl.side) appearing for the respondent police would submit that on the complaint lodged by the second respondent, the learned Magistrate forwarded the complaint to the first respondent under Section 161(3) Cr.P.C. Thereafter, the first respondent has registered the case in Crime No.08 of 2015, for the offence under Sections 498(A), 417, 120(b) IPC r/w Section 4 of Dowry Prohibition Act r/w 109 & 34 IPC. After completion of investigation, the first respondent has filed the final report before the learned Judicial Magistrate, Bodinayakanur for the offence under Section 498(A) IPC as against the petitioners. All the witnesses have spoken about the over tact of the each and every petitioner and as such the offence as against the petitioners are clearly attracted and prayed for dismissal of the quash petition.

6.Heard Mr.S.Ramasamy, the learned counsel for the petitioners and Mr.R.Erottuchamy, the learned Government Advocate (Crl. side) for the first respondent and Mr.K.Guhan, the learned counsel appearing for the second respondent.

7.There are totally five accused, in which the petitioners are arrayed as A1 to A5. The first accused is the husband of the second respondent herein and the second accused is the mother of the first accused and the third accused is the second accused sister's husband and the 4th and the 5th accused are uncle and aunt of the first accused. The marriage was solemnized between the first petitioner and the second respondent on 03.12.2012. On 20.01.2013, the first accused left Singapore, where he was working in the private company and thereafter the second respondent went to her grand father and grand mother's house and thereafter she shifted her residence at parents house at Chennai. Thereafter, the first accused had taken her to Singapore and both stayed there for two months. Again the defacto complainant came back to India and stayed along with her parents. She also conceived and also gave birth to a female child. Again the petitioners have demanded money to the tune of Rs.40 laksh as dowry from the second respondent and her family members. Thereafter, the first accused has failed to see his child and also the second respondent and without knowledge of the second respondent herein, he had taken treatment for his kidney issue in Meenatchi Mission Hospital, Madurai and return back to Singapore. Therefore, there is a specific allegations as against the first accused and attracted the offence under Section under Sections 498 (A) IPC and Section 4 of Dowry Prohibition Act. Insofar as A2 to A5



dowry, there is no specific allegations to attract the offence under Sections 498(A) IPC. In fact, the demand of dowry also is bald and vague and there is no specific date and place of the occurrence. Therefore, the petitioners 2 to 5 being her in-laws and aunt and uncle of the first accused, have been robbed in falsely in this crime without any specific averments to attract the offence as alleged by the second respondent herein.

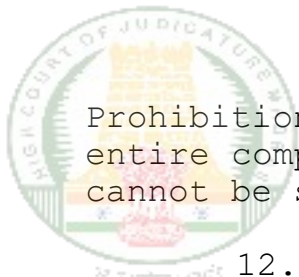
8. On perusal of the statement of all the witnesses, who were examined in support of the prosecution case, this Court is of the view that no specific allegation has been made as against the petitioners 2 to 5 herein.

9. Admittedly, after marriage, the second respondent never lived with their in-laws namely, the 2nd petitioner, the 4th and the 5th petitioners, who are residing at Chennai. Insofar as the third petitioner is concerned, who is none other than the sister's husband of the second petitioner. Even according to the second respondent, when she stayed with her parents at Chennai, the 4th and the 5th petitioners came to their house and demanded a sum of Rs.40 lakhs as dowry to purchase the house at Singapore. It is also bald and vague, since no date and place of occurrence have been stated and all the allegations are bald and vague and no specific allegations.

10. In this regard, it is relevant to rely upon the judgment of the Honourable Apex Court reported in **(2005) SCC (Crl.) 735** in the case of **Ramesh Vs. State of Tamil Nadu**, as follows:

"the allegations made against the husband, the in-laws, husband's brother and sister were bald allegations and appeared to suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the FIR nor the charge sheet furnished the legal basis for the magistrate to take cognizance of the offences alleged against the in-laws of the complainant. It was held that with regard to allegations in the FIR and the contents of the charge sheet, none of the alleged offences under Sections 498(A), 406 and 506(i) and Section 4 of Dowry Prohibition Act, were made against the married sister of the complainant's husband who was undisputedly not living with the family of the complainant's husband. Accordingly, the proceedings against them were quashed. "

11. The above judgment squarely applies to the case on hand. Since there is no specific averment to make out a case for the offence under Sections 498 (A) IPC and Section 4 of Dowry



Prohibition Act as against the petitioners 2 to 5. Therefore, the entire complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners 2 to 5 herein.

12. In view of the above discussion, this Criminal Original Petition is allowed insofar as the petitioners 2 to 5 alone and insofar as the first petitioner is concerned, this Criminal Original Petition is dismissed. The trial Court is directed to complete the trial as against the first petitioner is alone within a period of six months from the date of receipt of copy of this order.

13. Accordingly, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

vsd

To

1.The Judicial Magistrate,
Bodinayakanur.

2.The Inspector of Police,
All Women Police Station,
Bodinayakanaur,
Theni District.

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

+1CC to Mr.K.Guhan,Advocat,Sr.No.23732 dated 02/12/2020

Crl.O.P (MD) No.14417 of 2016

and

Crl.M.P (MD) Nos.6748 and 6749 of 2016

01.12.2020

VR (CO)

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