



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.08.2020**

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P. (MD)No.18329 of 2016

and

CrI.M.P. (MD)No.9133 of 2016

WEB COPY

1.Kannammal

2.Pandi

: Petitioners / Accused No.2 & 3

Vs.

1.State rep. by

The Inspector of Police,
All Women Police Station,
Virudhunagar District.

(Crime No.10/2015)

: 1st Respondent / Complainant

2.Meenammal

: 2nd Respondents / Defacto Complainant

Prayer: Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records relating to the proceedings in C.C.No.128 of 2016 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioners : Mr.G.Mariappan

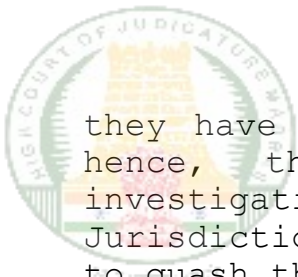
For Respondent No.1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (CrI.side)

For Respondent No.2 : Mr.R.Rajamohan

ORDER

The petitioners are Accused Nos.2 and 3 and they are the parents of Accused No.1 and they have been charged for the offences punishable under Sections 498(A) and 506(i) of the Indian Penal Code. To quash the said criminal proceedings initiated against the petitioners in C.C.No.128 of 2016 on the file of the learned Judicial Magistrate No.II, Virudhunagar, the present petition has been filed.

2. The case of the prosecution is that the *defacto* complainant got married to Accused No.1 in this case. Earlier, the *defacto* complainant got married to one Vadivel Murugan. Thereafter, she got divorce from the first husband and married Accused No.1 and they were living separately, and out of their wedlock, they have also got a female child. After sometime, Accused No.1 in this case quarrelled with the *defacto* complainant and he wants to marry another lady. At that point of time, the *defacto* complainant approached the petitioners herein for reunion with Accused No.1, and



they have refused to do that and also criminally intimidated her, hence, the complaint has been filed. Subsequently, after investigation, final report has been filed and the learned Jurisdictional Magistrate has taken cognizance of the offence, now, to quash the same, the present petition has been filed.

WEB COPY

3. The learned counsel appearing for the petitioners submitted that from the perusal of the entire materials, it could be seen that absolutely, there is no *prima facie* case made out against the petitioners either for the offence under Section 498(A) of the Indian Penal Code or for the offence under Section 506(i) of the Indian Penal Code. From the materials, it could also be seen that Accused No.1 and the *defacto* complainant married on their own volition and were living separately and there is no allegation that the petitioners herein have demanded dowry or harassed the *defacto* complainant. Even for the offence under Section 506(i) of the Indian Penal Code also, there is absolutely no *prima facie* material available on record. Therefore, the learned counsel prays to quash the proceedings.

4. Per contra, the learned Government Advocate (Criminal side) appearing for the first respondent opposed the quash petition stating that the materials available on record clearly made out a *prima facie* case against the petitioners herein.

5. The learned counsel appearing for the second respondent/*defacto* complainant submitted that the *defacto* complainant, after getting married to Accused No.1, gave birth to a female child and thereafter, the petitioners are taking steps to get their son/Accused No.1 married again and they have threatened the *defacto* complainant and also harassed her. Hence, the complaint has been filed.

6. I have considered the rival submissions and also perused the records carefully.

7. From the perusal of records, it could be seen that the entire allegation is only against Accused No.1 that, after marriage, the *defacto* complainant and Accused No.1 were living separately and also gave birth to a female child, thereafter, Accused No.1 refused to live with the *defacto* complainant. Hence, the complaint has been given. Absolutely, there is no allegation against the petitioners herein, who are the parents of Accused No.1, as if they have demanded dowry or harassed or criminally intimidated the *defacto* complainant. In the above circumstances, this Court is of the considered view that no *prima facie* case is made out against the petitioners herein.

8. At this juncture, the learned counsel appearing for the second respondent/*defacto* complainant submitted that Accused No.1 and the *defacto* complainant are now living together and the



petitioners are not accepting them and the petitioners may be directed to accept them in their family. This request cannot be considered by this Court, because, this Court cannot compel the petitioners to accept them and it is for the petitioners to decide. The materials available on record also would go to show that after marriage, both the *defacto* complainant and Accused No.1 are living separately.

9. Considering the above facts and circumstances of the case and also the materials available on record, this Court is inclined to quash the proceedings against the petitioners herein, as there is no *prima face* case made out against them to proceed further. Accordingly, the criminal proceedings in C.C.No.128 of 2016 pending on the file of the learned Judicial Magistrate No.II, Virudhunagar, is, hereby, quashed insofar as the petitioners herein are concerned.

10. In fine, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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 No.II, Virudhunagar.

2.The Inspector of Police,
All Women Police Station, Virudhunagar District.

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

+1 CC to M/s.R. RAJAMOHAN, Advocate (SR-13584[F] dated 04/08/2020)

Order made in

Cr1.O.P. (MD)No.18329 of 2016

Dated: 03.08.2020

SML

SDS (14.08.2020) 3P-5C
<https://hcservices.ecourts.gov.in/hcservices/>