



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN**

CRL.O.P (MD) No.22860 of 2016

and

CrI.M.P. (MD) Nos.10187 and 11991 of 2016

1.M.Rajamariappan

2.M.Chitraseela

... Petitioner/Accused Nos.1 & 2

**Vs.**

1. The State of Tamil Nadu rep. by  
The Inspector of Police,  
All Women Police Station,  
Aranthangi, Pudukottai District.  
(Cr.No.03 of 2016)

... 1<sup>st</sup> Respondent/Complainant

2. R.Valarmathi

... 2<sup>nd</sup> Respondent/Defacto Complainant

**Prayer:** Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to Crime No.03 of 2016, dated 04.10.2016 under Section 498(A) IPC and Section 4 of Dowry Prohibition Act 1961 on the file of the first respondent and quash the same.

|                 |   |                                 |
|-----------------|---|---------------------------------|
| For Petitioners | : | Mr.T.Lajapathi Roy              |
| For R1          | : | Mrs.M.Ananthadevi               |
|                 |   | Government Advocate (CrI. Side) |
| For R2          | : | Mr.S.Anand Venkatesh            |

**O R D E R**

This petition has been filed to quash the proceedings in Crime No.03 of 2016, dated 04.10.2016 on the file of the first respondent police, as against the petitioners.

2.The case of the prosecution is that the defacto complainant lodged a complaint before the first respondent police and mentioned in her complaint that the marriage was solemnized between the first petitioner and the defacto complainant on 14.11.2013 and the 2<sup>nd</sup> petitioner, who is the sister-in-law subjected to cruelty made by the first respondent police and demanded dowry. The first



petitioner, who is working as Forest Range did not live with the defacto complainant. Hence, the complaint.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.03 of 2016 for the offences under Sections 498(A) IPC and Section 4 of Dowry Prohibition Act, 1961, as against the petitioners. Hence, he prayed to quash the same.

4.The learned Government Advocate (Crl.side) appearing for the first respondent would submit that the investigation is still pending and this petition is in premature stage and hence, he prayed for dismissal of this petition.

5.Heard both sides and perused the materials available on record.

6. It is seen from the First Information Report that there are specific allegation as against the petitioners, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.255 of 2019*** dated ***12.02.2019*** - ***Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.***, as follows:-

*"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.*



5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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8.....

9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

8. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

"12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction



to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

9. As far as the second petitioner is concerned, who is none other than the own sister of the first accused. According to the learned counsel for the petitioners, the second petitioner is working as a Teacher and married to one Muthusamy and lived separately. At any point of time, she lived with the first accused and there is no allegation as against the second petitioner herein.

10. Considering the above submission the first respondent is directed to consider the submission made by the learned counsel for the petitioners in respect of her residence and to complete the investigation and file a final report within a period of twelve weeks from the date of receipt of a copy of this order. Further the first respondent is also directed to consider the submission with regard to the jurisdiction to investigate the matter while completing the investigation within a period of twelve weeks from the date of receipt of a copy of this order.

11. In view of the above, this Court is not inclined to quash the FIR. Accordingly, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (Crl.side)

// True Copy //

/ /2021  
Sub Assistant Registrar (CS-)

**To**

1. The Inspector of Police,  
All Women Police Station,  
Aranthangi,  
Pudukottai District.

<https://hcservices.ecourts.gov.in/hcservices/>



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

+ 2 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 25595

VSD

TE : 18/01/2021 : 5P/5C

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