



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Original Petition[MD] No.12038 of 2018

and

Crl.M.P(MD)No.5464 of 2018

1.Deep Kumar

2.K.R.Chidambaram

3.Banumathi

: Petitioners/Accused Nos.1 to 3

vs.

1.The Inspector of Police,

Tirukkoshtiyur Police Station,

Tiruppathur Taluk,

Sivagangai District,

Crime No.164/2014. : 1st Respondent/Complainant

2.Menaka

: 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the proceedings of impugned charge sheet in C.C.No.161 of 2015 on the file of the District Munsif -cum-Judicial Magistrate, Tiruppathur, Sivagangai District.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondents : Mr.S.Chandrasekar

Addl. Public Prosecutor

(for R1)

Mr.G.Kandhavadivelan (for R2)

O R D E R

This criminal original petition is filed to quash the charge sheet in C.C.No.161 of 2015 on the file of the District Munsif -cum-Judicial Magistrate, Tiruppathur, Sivagangai District.

2.The case of the petitioner is that first petitioner is the husband of the second respondent/defacto complainant and the second and third petitioners are the parents of the first petitioner. The first petitioner and the second respondent/de-facto complainant got married on 25.05.2014. Both of them were living in the petitioners' home. Within two months from the date of their marriage, the second respondent/de-facto complainant and the first petitioner were separated and the second respondent herein made a complaint against the petitioners. Based on which, FIR was registered against the petitioners by the first respondent police for the offences under Sections 418, 498(A), 406, 506(ii) of IPC and 4 of Dowry Prohibition Act, 2003 in Crime No.164 of 2014 on 21.11.2014. After registration

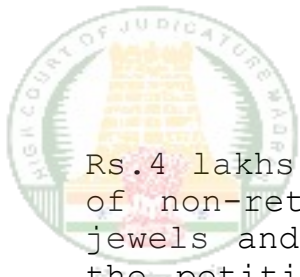


of the FIR, the petitioners were enlarged on anticipatory bail and subsequently, entire stridhana articles were returned to the second respondent with due acknowledge. After couple of years, the first petitioner and the second respondent herein entered into a compromise and filed a divorce petition on 28.07.2017 under Section 13(B) of the Hindu Marriage Act for dissolution of their marriage before the Family Judge, Chennai. Accordingly, the divorce was decreed and the marriage dated 25.05.2014 was dissolved. As per the terms of compromise, the second respondent had received lumpsum amount of Rs.4 lakhs and agreed to withdraw all the cases and also agreed to execute an affidavit of compromise before the appropriate authority wherever case is pending. Even after the above said compromise and dissolution of marriage between the first petitioner and the second respondent, the second respondent is harassing the petitioners by violating the terms of compromise and she has not withdrawn the C.C.No.161/2015 as agreed under the compromise filed before the Family Court in FCOP No.3746 of 2017 and thereby the petition for quash had been filed.

3.The learned counsel appearing for the petitioners would submit that in FCOP No.3746 of 2017, the first petitioner and the second respondent/de-facto complainant filed a compromise memo. In clause No.8 of the compromise memo, the second respondent had admitted and assured that she will withdraw all pending cases in all courts viz., District Munsif, Sub-Court, Magistrate, Sessions, as well as the Hon'ble High Court of Madurai and the Hon'ble High Court of Madras filed by her and further had admitted that the second respondent will not file any more cases in future. The second respondent had also agreed to execute an affidavit of compromise or file whatsoever petition, if necessary before all the courts. Having entered into a compromise, the second respondent has now gone back on the same. Based on the agreement only, the divorce was granted. The petitioner has also filed a copy of the proof affidavit filed before the Family Court in FCOP No.3746/2018. Believing the words and reposing confidence on the second respondent, the petitioner had agreed for mutual divorce and has also paid Rs.4 lakhs, whereas the second respondent in order to harass the petitioners, is refusing to stand by the terms of compromise and refusing to compromise in C.C.No.161/2015.

4.The learned Additional Public Prosecutor for the first respondent would submit that based on complaint given by the second respondent, investigation was conducted and after completion of investigation, final report has been filed and it has been taken up as C.C.No.161 of 2015 and is pending on the file of the learned District Munsif-cum-Judicial Magistrate, Tiruppathur.

5.The learned counsel for the second respondent would submit that it is true that a compromise was arrived at and an amount of



Rs.4 lakhs was received and an amount of Rs.5000/- was paid in lieu of non-return of silver articles, however, 10 sovereign of gold jewels and 850 grams of silver articles have not been returned by the petitioner, hence, the second respondent is refusing to agree for the terms of compromise and withdraw the complaint.

6.The learned counsel for the petitioners would submit that the specific reference has been made in respect of silver articles in the compromise deed and an amount of Rs.5000/- was paid to the second respondent/de-facto complainant towards non return of the same. If only the petitioners had withheld the gold jewels, the second respondent would have made a specific plea, whereas it is not stated so and the entire proceedings is in abuse of process of law in order to harass the petitioners.

7.I have gone through the materials available on records.

8.Since the second respondent had agreed to withdraw all the pending cases in all courts, namely, District Munsif, Sub-Court, Magistrate, Court of Sessions, as well as the Hon'ble High Court of Madurai and the Hon'ble High Court of Madras filed by her and having admitted that she will not file any more cases in future, the petitioner has paid Rs.4 lakhs and thereby the divorce order has been passed. Nowhere either in the proof affidavit or in the compromise deed, the second respondent has referred to gold articles or jewels whereas specific reference is made about the non returning of silver articles and an amount of Rs.5000/- is paid in lieu of the same. Having not stated anything about the gold jewels and articles, this Court is of the opinion that now the second respondent in order to harass the petitioners, is refusing to give compromise. Based on the compromise an amount of Rs.4 lakhs had been received by the second respondent/de-facto complainant and thereby the divorce petition has been allowed. In the opinion of this Court, the proceedings in C.C.No.161 of 2015 is an abuse of process of law. The second respondent having received money is harassing the petitioner.

9.In view of the above, this Criminal Original Petition is allowed and the proceedings in C.C.No.161 of 2015 on the file of the District Munsif -cum-Judicial Magistrate, Tiruppathur, Sivagangai District is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To மேலும் உரிமை

WEB COPY

- 1.The District Munsif-cum-Judicial Magistrate,
Tiruppathur, Sivagangai District.
- 2.The Inspector of Police,
Tirukkoshtiyur Police Station,
Tiruppathur Taluk,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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VB(28.02.2020) 4P 4C