



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:07.12.2020
CORAM
THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD).No.12129 of 2017

and

Crl.M.P.(MD).Nos.8393 and 8394 of 2017

WEB COPY

1.Kalpana
2.Senthilavathi
3.Thangarajapuspham
4.Jegankumar

...Petioners/Accused Nos.2 to 5

Vs

1.The Sub-Inspector of Police,
All Women Police Station,
Vilathikulam Taluk,
Tuticorin District.
(Crime No.6 of 2016)

2.N.Sivagami

... Respondents.

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertains to the C.C.No.92 of 2017 on the file of the District Munsif Cum Judicial Magistrate Court, Vilathikulam and quash the same in respect of the petitioners alone.

For Petitioners : Mr.M.Thirunavukkarasu

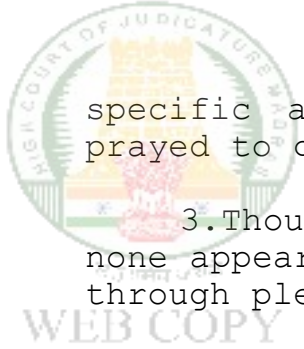
For 1st Respondent : Ms.M.Ananthadevi

Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.92 of 2017 on the file of the District Munsif Cum Judicial Magistrate Court, Vilathikulam, as against the petitioners.

2.The learned Counsel appearing for the petitioners submitted that totally there are five accused in this case, in which, the petitioners have been arrayed as A2 to A5. The petitioners are charged for the offence under Section 498(A) of IPC on the complaint lodged by the second respondent herein. He further submitted that except bald allegation, there is no specific allegation to attract the offence under Section 498(A) of IPC as against the petitioners. The petitioners are in-laws of the second respondent/defacto complainant and a false complaint has been foisted as against the petitioners and there is no allegation levelled as against the petitioner in respect of demand of dowry. Therefore, the first respondent has not rightly charged the petitioner for the offence under Section 498(A) of IPC. He further submitted that there is no



specific averments to attract the said offence. Therefore, he prayed to quash the proceedings.

3. Though notice has been served on the second respondent, but none appeared on behalf of the second respondent either in person or through pleader.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent Police submitted that totally there are five accused in this case, in which, the petitioners have been arrayed as A2 to A5, on the complaint lodged by the second respondent. After completion of investigation, the first respondent has filed a final report for the offence under Section 498(A) in respect of the petitioners alone and the offence under Sections 498(A), 406 and 506 (i) of IPC and 4 of Dowry Prohibition Act, has been charged in respect of A1. She further submitted that there are specific allegation as against the petitioners as such, he prayed for dismissal of the quash petition.

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (criminal side) appearing for the first respondent and none appearance on behalf of the second respondent.

6. On perusal of the records, it is seen that totally there are five accused in this case, in which, the petitioners have been arrayed as A2 to A5 and they are in-laws of the second respondent. According to the second respondent, she got married with the first accused on 29.08.2012. During their marriage, the parents of the second respondent presented gold jewels and other household articles. Even thereafter the first accused demanded huge dowry and insofar as the petitioners are concerned, they scolded the second respondent with filthy language and abused her. Except the said allegation, there is absolutely no other allegation as against the petitioners to attract the offence under Section 498(A) of IPC. Though the first respondent has filed a charge sheet for the offence under Sections 498(A), 406 and 506(i) of IPC and Section 4 of Dowry Prohibition Act, the petitioners are charged for the offence under Section 498(A) only. On perusal of the statement recorded under Section 161(3) Cr.P.C., it revealed that only on the instigation of the petitioners, the first accused abused the second respondent with filthy language and also harassed her. The entire allegation made as against the first accused and insofar as the petitioners are concerned, except the above said allegation, no other allegation made by the second respondent to attract the offence under Section 498(A) of IPC. The petitioners are in-laws and they were not living in their respective matrimonial house and at any point of time, they have not stayed with the first accused and the second respondent. In this regard, it is relevant to rely upon the judgment of the Honourable Apex Court reported in **(2005) SCC (Cr1.)**

<https://hcrj.mca.gov.in/hcrj/cases/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. "

7.The above case is squarely applicable to this case on hand. Further, the petitioners are in-laws and they are charged for the offence under Section 498(A) of IPC. Mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specifically if it happens soon after the wedding. Therefore, the entire proceedings cannot be sustained as against the petitioners and it is nothing but clear abuse of process of law.

8.In view of the above discussion, this criminal original petition stands allowed and the proceedings in C.C.No.92 of 2017 on the file of the District Munsif Court cum Judicial Magistrate Court, Villathikulam, is hereby quashed in respect of the petitioners alone. Insofar as the first accused is concerned, the trial Court is directed to complete the trial as against the first accused within a period of six months from the date of receipt of a copy of this order, if not already disposed of. Consequently, the connected criminal miscellaneous petitions are closed.

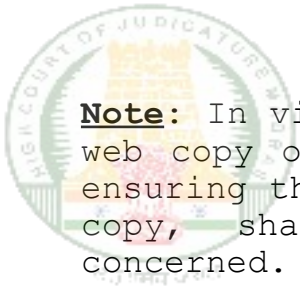
Sd/-

Assistant Registrar (CS-II)

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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.

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To:

- 1.The District Munsif Cum
Judicial Magistrate,
Vilathikulam.
- 2.The Sub-Inspector of Police,
All Women Police Station,
Vilathikulam Taluk,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) .No.12129 of 2017

and

Crl.M.P. (MD) .Nos.8393 and 8394 of 2017

07.12.2020

(SJ)

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