



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD) Nos. 22220 of 2016 & 14772 of 2017
and
CRL.M.P. (MD) Nos. 11507 & 11508 of 2016 &
9843 & 9844 of 2017

R.Vijayalakshmi

... Petitioner/Accused No.1
in Crl.O.P. (MD) No. 22220 of 2016

1. P.Arumugam
2. M.Ponnammal
3. M.Nagarathina Muthupandi @ Banu

... Petitioners/
Accused Nos. 2, 4 & 5
in Crl.O.P. (MD) No. 14772 of 2017

Vs.

N.Paulin Vedhavalli

... Respondent/Complainant
in both petitions

Prayer in Crl.O.P. (MD) No. 22220 of 2016 : Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to Cr.M.P.No.1017 of 2015 on the file of the Judicial Magistrate, Nilakottai and quash the same.

Prayer in Crl.O.P. (MD) No. 14772 of 2017: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to Cr.M.P.1017 of 2015 on the file of the learned Judicial Magistrate, Nilakottai and quash the same.

(in both Crl.O.Ps.)

For Petitioner : Mr.R.Narayanan

* * *

O R D E R

These criminal original petitions have been filed for quashing the proceedings in Cr.M.P.No.1017 of 2015 on the file of the Judicial Magistrate, Nilakottai.

2. The respondent herein is the complainant in the said case.
To quash the same, these criminal original petitions have been filed.



3. Though the respondent has been served and she had also entered appearance through her counsel, there was no representation on her behalf.

4. Later when the case was listed on earlier occasion, the case was adjourned to enable the appearance of the respondent's counsel. Even today there is no appearance on behalf of the respondent.

5. Heard the learned counsel appearing for the petitioners who reiterated the contentions set out in the memorandum of grounds.

6. I also carefully went through the materials enclosed in the typed set of papers. The respondent herein lodged a criminal case against the petitioners herein and the same was registered as Crime No.202 of 2015 on the file of Batlagundu police station for the offences under Sections 294(b), 442, 323 and 506(i) of I.P.C. The same was investigated and closed as mistake of fact. Thereafter the respondent filed a protest petition and the same has been taken on file as a private complaint. Cognizance of the aforesaid offences was taken and summons were issued by the Court below to the petitioner herein. To quash the same, these criminal original petitions have been filed.

7. The petitioner in Crl.O.P.(MD)No.22220 of 2016 is shown as the first accused. The petitioners in Crl.O.P.(MD) No.14772 of 2017 are shown as accused Nos.2,4 and 5.

8. The case of the complainant is that the marriage between Vijayalakshmi and Ramesh Babu took place on 08.09.2013. The complainant would allege that there was an illicit intimacy between Vijayalakshmi and one Karuppusamy, even prior to the marriage and that was the reason for the eruption of differences between Vijayalakshmi and Ramesh Babu. While so, on 24.03.2015, at about 07.00 p.m., the petitioners herein are said to have come into the house of the complainant and severely assaulted her. That is the substance of the complaint of the respondent herein.

9. On going through the materials on record, it is seen that the marriage between Vijayalakshmi and Ramesh Babu took place on 08.09.2013. Vijayalakshmi had filed a criminal complaint against her husband and in-laws as early as on 11.11.2014 before the Superintendent of Police, Sivagangai District. The receipt was also issued by the police. Thereafter the file moved from the Superintendent of Police, Sivagangai to the All Women police station, Manamadurai on 06.02.2015 and her complaint was registered in Crime No.4 of 2015 for the offences under Sections 417, 420, 498(A) and 506(ii) of I.P.C.



10. The learned counsel appearing for the petitioners states that this First Information Report has been investigated and also charge sheeted. In the said criminal case, Ramesh Babu is figuring as the first accused while the complainant herein Paulin Vedhavalli is figuring as the second accused. It is stated that Ramesh Babu filed H.M.O.P.No.2 of 2015 before the Principal Sessions Judge, Dindigul, seeking restitution of conjugal rights. The matter was referred for admission before the Lok Adalath. Before the Lok Adalath, the same was settled and the parties have agreed to live together. Ramesh Babu also agreed to withdraw the H.M.O.P. The case was disposed of and the award was passed incorporating those terms on 11.04.2015. Thereafter on 01.06.2015 Vijayalakshmi sent a complaint to Chief Minister's Special Cell and various authorities alleging that after the Lok Adalath was over, the complainant wanted her to withdraw the criminal case. But Vijayalakshmi is said to have taken a stand that unless Ramesh Babu takes her back to the matrimonial home, she will not be in a position to withdraw it. This allegation is categorically set out in her complaint dated 01.06.2015. Postal receipts are enclosed in page No.24 of the typed set of papers. The materials referred to above are unimpeachable materials. But in the case on hand, the respondent herein gave a complaint only on 05.06.2015.

11. I therefore find considerable force in the contention of the petitioners' counsel that the case on hand has been given as a counter blast to the complaint of Vijayalakshmi and to wreck vengeance on the petitioners herein.

12. The Hon'ble Supreme Court in the decision reported in 1992 Supp (1) SCC 335 (State of Haryana vs. Bhajan Lal) has laid down certain parameters which have to be borne in mind while considering a petition for quashing a criminal proceedings. One of the parameters is as follows:-

"(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

13. It is seen that the impugned proceedings are vitiated by *mala fides* and have been initiated to wreck vengeance on the petitioners. This would be a ground for quashing the proceedings. I am of the view that the complaint has been filed by the respondent aggrieved by the refusal of Vijayalakshmi to withdraw her criminal case earlier given against her husband, other respondents and in-laws.



14. In this view of the matter, the impugned proceedings stand quashed. The criminal original petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate,
Nilakottai.

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

+1 CC to M/s.R.NARAYANAN, Advocate (SR-5260[F] dated 07/02/2020)

Crl.O.P.(MD) Nos.22220 of 2016 & 14772 of 2017

05.02.2020

_NR (22.06.2020) 4P 4C