



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2020

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P(MD)No.6823 of 2017

and

Crl.M.P(MD)No.4540 and 4541 of 2017

WEB COPY

- 1.Mohan
- 2.Amutha
- 3.Meena
- 4.Archana

... Petitioners/ Accused Nos.3 to 6

Vs

- 1.State represented by
The Inspector of Police,
All Women Police Station,
Pudukottai,
Pudukottai District.
[Crime No.10 of 2016]

...1st Respondent/Complainant

- 2.Kayathri

... 2nd Respondent /Defacto complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the Charge sheet in C.C.No.18 of 2017, pending before the learned Judicial Magistrate, Pudukottai, Pudukottai District and quash the same insofar as the petitioners are concerned.

For Petitioners: Mr.M.Ramu

For Respondent : Mr.K.K.Ramakrishnan,
No.1 Additional Public Prosecutor

Respondent : Mr.A.Thiruvadi Kumar,
No.2 Legal Aid Counsel

ORDER

This Criminal Original Petition has been filed by accused Nos. 3 to 6 in C.C.No.18 of 2017 on the file of the learned Judicial Magistrate, Pudukottai to quash the proceedings pending against them in C.C.No.18 of 2017.

2.Though notice was served to the second respondent and her name has also been printed in the cause list, there was no representation for the second respondent and therefore, this Court by order dated 13.01.2020 appointed Mr.Thiruvadi Kumar, as Legal Aid Counsel to proceed with the case on behalf of the second



3.The learned Counsel for the petitioners submits that prior to the present complaint dated 21.09.2016 before the All Women Police Station, Pudukottai, the second respondent lodged a complaint before the Commissioner of Police at Chennai on 11.07.2016. As per the 161(3) statement recorded in this case, the defacto complainant, has received back the Sridhana articles, a motor cycle and cash Rs.50,000/-. In the present complaint she also referred to the earlier complaint dated 11.07.2016 lodged before the Commissioner of Police, Chennai city, which was referred to the All Women Police Station, Pudhukottai for subsequent enquiry and those complaints are very necessary in deciding the issue. Moreover, there is no specific averment with regard to the place and time of the alleged second marriage and admittedly there is no eye witnesses to the same. Based on a photograph in a mobile phone of the husband, she has lodged a complaint for the offence under Section 494 IPC and therefore, this petition is liable to be quashed.

4.Per contra, the learned Additional Public Prosecutor would submit that the complaint dated 11.07.2016 lodged before the Commissioner of Police, Chennai city was forwarded to the Thirumangalam All Women Police Station for enquiry and this complaint dated 21.09.216 has been lodged before the All Women Police Station, Pudukottai as such there is no previous complaint in this case. However, in 161(3) Statement, it is recorded that the complaint was lodged before the All Women Police Station on 05.10.2016 and based on that certain articles have been returned by the accused to the defacto complainant in the presence of the Police.

5.Mr.Thiruvadi Kumar, learned Counsel for the defacto complainant fairly pointed out that there are specific averments against petitioners 1 and 2 and the same is a matter for trial and it cannot be quashed in limine. However, there is no specific overt act against these petitioners 3 and 4, who are married sisters in law, who were residing far away from the matrimonial home. According to him there are specific allegations that petitioners 1 and 2 are residing along with defacto complainant and there are allegations of demand of dowry against them. He also admitted that with regard to the offence under Section 494 IPC, there is no specific material placed on record except the photograph of a mobile phone, based on which Section 494 IPC is also included.

6.Heard the learned Counsel on either side and perused the materials placed on record.

7. A perusal of the records would show that apart from the



charges under Sections 494 and 498(A) IPC, the prosecution has filed the final report including the charge for the offence under Section 406 IPC. The learned Additional Public Prosecutor pointed out that there is no separate complaint lodged on 05.10.2016 by the second respondent as claimed by the petitioners. It is only stated so in the statement recorded before the All Women Police Station, subsequent to the registration of this case. During such enquiry petitioners 1 and 2 have agreed to pay a sum of Rupees Three Lakh to the defacto complainant and as a part of that amount, Rupees Fifty Thousand was paid to the defacto complainant. Therefore, according to him, there is no separate complaint given by the defacto complainant on 05.10.2016.

8.As pointed out by the learned Counsel for the petitioners, except the photograph in a mobile, there is no other material placed by the complainant as well as the respondent Police for the alleged second marriage and therefore, the offence under Section 494 IPC cannot be sustained. Accordingly, the charge under Section 494 IPC is hereby quashed. With regard to the charge under Section 498(A) IPC as against respondents 3 and 4, who are sisters-in-law of the defacto complainant, admittedly they got married, they were living separately far away from the matrimonial home and they have never shared the house of the accused No.1 and defacto complainant and moreover, there is no specific averment that they demanded dowry in her statement as well as in the complaint and therefore, the charges under Section 498(A) IPC as against the petitioners 3 and 4 is hereby quashed.

9.In view of the above, the charge as against the petitioner 1 and 2 for the offence under Sections 498(A) and 406 IPC are sustained. It is stated that charges are yet to be framed by the trial Court and therefore, it is open to the trial Court to frame charges as per the available materials and proceed with the trial and conclude the trial as expeditiously as possible.

10.With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

WEB COPY

- 1.The Judicial Magistrate,
Pudukottai, Pudukkottai District.
- 2.The Inspector of Police,
All Women Police Station,
Pudukottai,
Pudukottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.A.THIRUVADIKUMAR, Advocate (SR-4257[F] dated 31/01/2020)

+1 CC to Mr.M.RAMU, Advocate (SR-4277[F] dated 31/01/2020)

Crl.O.P(MD)No.6823 of 2017
31.01.2020

_KM (04.08.2020) 4P 6C