



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2021

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Cr1.O.P.No.12178 of 2016
and Cr1 MP No.6265 of 2016

1. Mohammed Mazharullah
2. Khurisd Begum
3. Nazia Nazz
4. Aiysha Tabsum

...Petitioner/Accused No.2 to 5
Vs.

1. The Inspector of Police,
All Women Police Station,
Denkanikottai
Krishnagiri District.

..Respondent /Complainant

- 2.S.Yasmin
- 3.

..Respondent /Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.286 of 2015 on the file of the District Munsif cum Judicial magistrate, Denkanikottai, Krishnagiri District.

For Petitioner	: Mr.M.Sathish Kumar
For Respondents	: Mr.E.Raj Thilak
	Counsel for Government
	(Cr1. Side) for R1.
	Mr.P.M.Jayachandran
	for R2

ORDER

This Criminal Original petition has been filed seeking to quash the proceedings in C.C.No.286 of 2015 on the file of the District Munsif cum Judicial magistrate, Denkanikottai, Krishnagiri District.

2. The case of the prosecution is that the petitioners herein are the father-in-law, mother-in-law, sister-in-law of the Defacto complainant. The Accused 1/Mohammed Hasanullah, who is the son of the 1st and 2nd petitioner herein, had married the 2nd respondent/defacto complainant. At the time of marriage, the petitioners had gifted 11 sovereigns of gold jewels and the 2nd respondent received sreedhana of 25 sovereigns of gold jewels from her parents. While so, A1 had



assured that he is owning a shoe factory of his own for the marriage of A1's brother and also to meet the medical expenses of the 2nd petitioner, entire gold jewels were taken by the Accused No.1. The further allegation made against the petitioners is that they had demanded Rs.5,00,000/- stating that the shoe company had sustained loss. When the defacto complainant fails to get the money demanded by the petitioners, the petitioners are said to have ill-treated and threatened the 2nd respondent to death. Therefore, the 2nd respondent had preferred a complaint before the respondent police on 03.12.2014. An FIR came to be registered in Crime No.17 of 2014 for the offences punishable under Section 498 (A), 406, 506(ii) of IPC and Section 4 of Dowry Prohibition Act. After investigation, the respondent police, filed a final report for the alleged offence under Section 498(A), 341, 323, 406, 506(i) of IPC and Section 4 of Dowry Prohibition Act & 109 of IPC and the same was taken on file by the District Munsif Cum Judicial Magistrate, Denkanikottai, Krishnagiri District in C.C.No.286 of 2015.

3. The learned counsel for the petitioners submitted that they have been falsely implicated in this case and further submitted that from the date of her marriage, the 2nd respondent had not resided in the matrimonial home, as she had frequently picked up quarrel with A1. Before registration of the FIR, the A-1 had preferred the suit in O.S.No.103 of 2014 against the 2nd respondent praying for restitution of conjugal rights and on receipt of the summons, the 2nd respondent appeared before the Court below and expressed her willingness to join the matrimonial home. Thereafter on 11.08.2014, mediation was held between the A-1 and 2nd respondent before the Jamath members and as a result of the same, both families were agreed to withdraw the suit in O.S.No.103 of 2014 without any differences. Whiles, to the shock and surprise of the petitioners, the 2nd respondent preferred a complaint before the 2nd respondent. The learned counsel further submitted that the Accused 3 and 4 being the sister-in-law's of the defatco complainant and as they were married and living separately in their matrimonial home, they are not connected with the offence as alleged by the prosecution.

4. Mr.E.Raj Thilak, learned Counsel for Government (Crl. Side) for 1st respondent on instructions submitted that trial has already been commenced and therefore, prays for dismissal of this petition.

5. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code.



before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

6. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioners. Taking into consideration, the facts and circumstances of the case and also considering the age of the petitioners 1 and 2, the presence of the petitioners 1 and 2 are dispensed with and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioners 1 & 2 shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

7. It seen from the final report filed by the respondent police that the accused No.1 had demanded money and also threatened and attacked the defaco complainant to get the money from her parents and further, there is no specific overt act as against the respondents 3 and 4 are concerned and therefore, this Court is inclined to quash the proceedings in C.C.No.286 of 2015 on the file of the District Munsif cum Judicial magistrate, Denkanikottai, Krishnagiri District only insofar as the 3rd and 4th petitioners are concerned and insofar as the petitioners 1 and 2 are concerned, the Court below is directed to conduct the trial and complete the proceedings in C.C.No.286 of 2015 on the file of the District Munsif cum Judicial magistrate, Denkanikottai, Krishnagiri District within a period of three months from the date of receipt of copy of this order. In the result, this Criminal Original Petition is allowed insofar as the petitioners 3 and 4 are concerned and dismissed insofar as the petitioners 1 and 2, are concerned. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif cum Judicial magistrate,
Denkanikottai, Krishnagiri District

2. The Inspector of Police,
All Women Police Station,
Denkanikottai ,Krishnagiri District.

3.The Public Prosecutor,High Court of Madras,Chennai.

CrI.O.P.No.12178 of 2016
and CrI MP No.6265 of 2016

PMK (CO)

7.8K(19.08.2021)
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