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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 31.08.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.13117 OF 2015

AND

M.P.NO.1 OF 2015

1. Jesudoss
2. J.Maryrani
3. Baskaran

... Petitioners/
Accused 2 to 4

.Vs.

1. The Inspector of Police,
W-9, All women Police Station,
Villivakkam,
Chennai - 600 049.

2. Mrs.Reeta Carolin

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash in C.C.No.7242 of 2013 on the file of X Metropolitan Magistrate Court Egmore, Chennai.

For Petitioner : Ms.V.Ananthi
For M/s.K.Mohanamurali

For R1 : E.Raj Thilak
Government Advocate

For R2 : Mr.C.Ravichandran

ORDER

The present petition has been filed under Section 482 of the Code of Criminal Procedure to interfere with the progress of the trial in Calendar Case No.7242 of 2013, which is now pending on the file of the X Metropolitan Magistrate, Egmore Chennai and to quash the same.



2. The said Calendar Case No.7242 of 2013 had been taken cognizance by the said X Metropolitan Magistrate, Egmore, Chennai pursuant to the investigation in Crime No.8 of 2013, which had been registered under Section 498A and 506(ii) IPC.

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3. As stated above, the Calendar Case is of the year 2013 and owing to the pendency of the present Criminal Original Petition, no further effective progress had occurred towards the disposal of the said Calendar Case.

4. The petitioners herein are A2 to A4 in the said Calendar Case. They are father, mother uncle of A1. The de facto complainant and A1 were married on 6.5.2011. Thereafter, owing to various circumstances which intervened in the course of their marital life, the de facto complainant had a necessity to give a complaint making out an offence under Section 498A and 506(ii) IPC against her husband and against the present petitioners herein.

5. It will not be appropriate on my part to examine the nature of the complaint given, but, it would be sufficient to state that subsequent to the investigation of the said complaint, the first respondent police viz., Inspector of Police W9 All Women Police Station had thought it fit to file a final report under Section 498A and 506(ii) IPC against the husband of the de facto complainant and the present petitioners.

6. In the petition seeking to interfere with the progress of Calendar Case, it had been stated that in the FIR, except one running line about the petitioners, no further overtact has been alleged against the petitioners herein. It had also been stated that there is no custom for "Aadi Seer" in persons who practise Christianity and therefore, the complaint is an illegal attempt to harass the present petitioners. It is stated that the petitioners are senior citizens.

7. All these aspects can be put during the cross-examination of the de facto complainant whenever she gets in the witness box. The allegations against the present petitioners can be either said to be established or said to be disproved only during the course of trial. A cursory reading of the complaint and the FIR will not serve the ends of justice for deciding as to whether the allegations made either in the complaint or in the final report are made out.

8. The Hon'ble Supreme Court in Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others (2021 SCC OnLine 315) had given very strong guidelines particularly to the High Courts calling upon the High Courts to restrict the power of quash and directing them to exercise it sparingly with



circumspection and in the rarest of the rare cases and quash cannot be justified by an enquiry as to the reliability or genuineness of the allegations. Quashing of complaint should be an exception rather than an ordinary Rule. I am confident that the X Metropolitan Magistrate, Egmore would give more than sufficient opportunity to the learned counsel for the present petitioners/accused 2 to 4 to cross examine the witnesses produced by the prosecution and thereafter, the learned Metropolitan Magistrate would also give a better finding on appreciation of evidence. Quashing the Calendar Case is not advisable at this stage. Let the trial commence and let the Trial end.

9. The learned counsel for the petitioner submits that the petitioners are senior citizens. That fact should have been borne in mind by the learned counsel before the present Application has have been filed. Had trial progressed from 2013 onwards, it would have been definitely concluded by this time. I am not inclined to quash the trail.

With the above observation, the Criminal Original Petition is dismissed. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk

To

1. The X Metropolitan Magistrate,
Egmore, Chennai.
2. -do thro The Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.Mohanamurali, Advocate, S.R.No.43572
+1cc to Mr.C.Ravichandran, Advocate, S.R.No.43590

CRL.O.P.NO.13117 OF 2015 AND
M.P.NO.1 OF 2015

KSM(CO)
PBS/23/09/2021