



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.20658/2015 & MP.No.1/2015

[Video Conferencing]

1.R.Kumaresan
2.S.Ramanujam
3.Rajeswari

... Petitioners

Versus

1.State rep. By
The Inspector of Police
All Women Police Station(West)
Coimbatore City

2.P.Rajappan

... Respondents

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records in C.C.No.55/2014 on the file of the learned Additional Mahila Court, Coimbatore and quash the same.

For Petitioners	:	Mr.V.Balasubramaiaam
For R1	:	Mr.E.Raj Thilak Additional Public Prosecutor
For R2	:	Mr.V.Illanchezian

ORDER

- (1) Heard Mr.V.R.Balasubramaniam, learned counsel for the petitioner, Mr.E.Raj Thilak, learned Additional Public Prosecutor and Mr.V.Illanchezian, learned counsel for the 2nd respondent.
- (2) The present petition has been filed under Section 482 of Cr.P.C., seeking to quash further proceedings in CC.No.55/2014 now pending on the file of the learned Additional Mahila Court, Coimbatore, which Calendar Case had been taken cognizance pursuant to investigation in Crime No.7/2013 by the 1st respondent police for alleged offence under Section 498-A IPC on a complaint given by the



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2nd respondent herein. It must be kept in mind that the 2nd respondent is the father of the wife of the 1st petitioner/A1. The 2nd petitioner/A2 is the father of the 1st petitioner/A1 and the 3rd petitioner/A3 is the mother of the 1st petitioner/A1.

- (3) I am informed that the 3rd petitioner/A3 died during the pendency of the present Criminal Original Petition and therefore, any charge against her, naturally abates.
- (4) The marriage between the 1st petitioner/A1 and his wife was held on 01.12.2006 and it is stated that even immediately thereafter, the wife was criticised with an allegation that she came from a poor family. But, however, the 1st petitioner/A1 and his wife left to Japan on 09.12.2006. They are blessed with a boy who was born on 07.09.2007. While in Japan, the wife had addressed a letter to the 2nd respondent herein/her father and on the basis of such communication and information received, a complaint was originally given to All Women Police Station, Tiruparangundram at Madurai, who registered a FIR in Crime No.34/2012 for the offence under Section 498-A IPC and also under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. Subsequently, the investigation appears to have been transferred to the file of the 1st respondent herein, viz., the Inspector of Police, All Women Police Station [West] in Coimbatore, who registered a FIR in Crime No.7/2013. After investigation, a Final Report was filed only with respect to the offence under Section 498-A IPC. The Final Report had been taken cognizance by the learned Additional Mahila Court, Coimbatore as CC.No.55/2014, which Calendar Case is now sought to be quashed by all the three accused persons.
- (5) As stated earlier, the charge against the 3rd petitioner/A3 has abated owing to her death.
- (6) A reading of the FIR, which is based purely on the information received and not on direct knowledge of events, reveals the normal complains of there being differences of opinion between the married spouses and also that the 1st petitioner herein/A1 had physically abused his wife and had also uttered words which had caused mental agony. There was also a demand for about 5 sovereigns of gold and that Rs.1 Lakh cash should be paid and there was a further demand that the property which stood in the name of the defacto complainant, should be transferred to the name of the 1st petitioner herein/A1. The trial had hardly commenced. The documents have been served under Section 207 Cr.P.C., and the case was posted for questioning on 21.05.2015. There



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were a few hearings conducted after that particular date and thereafter, I am informed that the 1st petitioner herein/A1 has also left to Japan where he is now residing. His wife and his son are residing together at Madurai. There is no information given as to whether any maintenance amount is being forwarded by the 1st petitioner/A1 to his wife and I can reasonably presume that no maintenance has been provided as on date or has ever been provided.

- (7) Be that as it may, the allegations in the FIR which had been given only by the father of the wife of the 1st petitioner/A1 disclose a horrendous state of a wife meeting demands of cash, demands for jewels and also criticisms of appearance. These are facts which will have to be established during the course of trial. However, it is also informed that the father of the wife of the 1st petitioner/A1, viz., the 2nd respondent herein, who was the complainant, had, in the meanwhile, died.
- (8) The prosecution will necessarily have to rely on the sole testimony of the wife of the 1st petitioner/A1 and among the list of witnesses, her mother and her brother are also cited and also her neighbour and a tenant.
- (9) The allegations are mainly focused only against the 1st petitioner/A1. The only allegation as against the petitioners 2 and 3 herein/A2 and A3 was that they had jointly stated immediately after the marriage that the lady had come from a poor family. There is no specific allegation that it was only stated by the 2nd petitioner herein/A2 or only by the 3rd petitioner herein/A3. A general statement in that regard had been mentioned. I would therefore, give necessary benefit to the 2nd petitioner herein/A2 who today, must be about 84 years of age and would have repented any words spoken by this time, in view of the tortuous await for trial to commence in the Calendar Case.
- (10) Insofar as the 1st petitioner herein/A1 is concerned, the learned counsel for the petitioner stated that the allegations had even, if admitted, taken place only in Japan, outside the jurisdiction of this Court and in this connection, the learned counsel for the petitioners, quite apart from drawing the attention of this Court to Section 188 Cr.P.C., also relied on [1] judgment of a learned Single Judge of this Court in CrI.OP.No.21346/2005 dated 13.08.2015 [Itta Badrinath and Others Vs. The State rep.by the Inspector of Police, All Women Police Station, W-25, T.Nagar, Chennai-17 and another] and [2] judgment of a learned Single Judge in CrI.OP [MD] No/16668/2012 dated



01.03.2019 in the Madurai Bench of this Court [Nithyakalyani and Others Vs. The Inspector of Police, City Crime Branch, Madurai].

- (11) The first judgment related to an allegation made by a wife over non-consummation of the marriage and that, she was subjected to cruelty in USA. The learned Single Judge, after placing reliance on the decision reported in 2014 [8] SCC 273 [Arnesh Kumar V. State of Bihar], had finally thought it fit to quash the complaint in view of the fact that sanction under Section 188 Cr.P.C., which is required for enquiry and trial by a criminal Court, had not been obtained or granted.
- (12) The second case related to a complaint under Sections 406, 420, 467, 468 and similarly related provisions under the Indian Penal Code. This was sought to be quashed and the learned Single Judge had again held that a civil suit in Singapore has been filed against the defacto complainant therein for damages by A1. In that particular suit at Singapore, a compromise had been entered into. The learned Single Judge had, in view of the facts therein, since the provision under Section 188 Cr.P.C., had not been complied with, thought it fit to quash the Calendar Case.
- (13) Insofar as the present case is concerned, it is clear that sanction under Section 188 Cr.P.C., has no application for investigation. However, a sanction is required for enquiry and for trial by the Criminal Court for any offence committed outside India. Whether such a sanction had been obtained by the prosecution or not, is a question to be raised before the Trial Court. If the prosecution had obtained necessary sanction, then the Trial Court can proceed further as against the 1st petitioner herein/A1, including the allegations relating to occurrences outside the country in Japan. If the prosecution has not obtained such sanction, then the trial can proceed only with respect to the allegations which have been leveled within the country, viz., the period between the date of marriage on 01.12.2006 till the date when the 1st petitioner/A1 and his wife went to Japan on 09.12.2006.
- (14) A reading of the FIR does not prima facie reveal any offence said to have been committed by the 1st petitioner herein/A1 in that particular period of time. At any rate, since he had gone over to Japan and had not even paid any maintenance amount to his wife, it would only be appropriate that he comes back to the country, faces the trial and the learned Additional Judge, Mahila Court, Coimbatore, examines the records to find out whether



(15) It would also be advisable that the 1st petitioner/A1 reaches out to his wife and to his son and make some attempt to pay maintenance amount to them for their livelihood. The marriage still subsists. The son is still his son and he has a responsibility over that son till the boy is able to look after himself on acquiring necessary educational qualifications. That responsibility is in-built on the 1st petitioner/A1 in view of his marriage with his wife.

(17) Therefore, the trial can go on as against the 1st petitioner herein/A1. Final Report is quashed as against the 2nd petitioner herein/A2. Charges abate as against the 3rd petitioner/A3.

(19) With the said observations, the Criminal Original Petition is dismissed with respect to the 1st petitioner/A1 and partly allowed with respect to the 2nd petitioner/A2. Consequently, connected miscellaneous petition is closed.

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To

1.The Additional Mahila Court,
Coimbatore.

2.The Inspector of Police
All Women Police Station(West)
Coimbatore City

3.The Public Prosecutor
High Court, Madras.

+1cc to Mr.V.R.Balasubramaniam, Advocate Sr No.49991

Cr1.OP.No.20658/2015

PCH (CO)
PR (18/10/2021)