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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.19014 of 2016
and Crl.M.P.No.8939 of 2016

1. Safeena
2. Bashreeya Ummal
3. Seatha
4. Rajathi

.. Petitioners/A1, A5 to A7

Vs.

1. E.Mohamed Jamaludeen
2. J.Alima Ummal

.. Respondents/ Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in ***C.C.No.42 of 2015** on the file of the learned Judicial Magistrate No.II, Karaikal and to quash the same.

(amended as per order of this Hon'ble Court dated 28.11.2016 in Crl.MP.12588/2016 in Crl.OP.19014/2016 by PNRJ)

For Petitioners : Mr.R.Natarajan

For Respondents : Ms.Uma Bhuvaneswari
Legal Aid Counsel

ORDER

(The case has been heard through video conference)

Challenging the proceedings in C.C.No.42 of 2015, pending on the file of the learned Judicial Magistrate No.II, Karaikal, the petitioners / A1, A5 to A7 are before this Court with this Criminal Original Petition.

2. Even though notice has been served on the respondents/complainants and their names printed in the cause list, none appeared for them for the past two hearings. In the above circumstances, Ms.C.Uma Bhuvaneswari, was appointed as Legal Aid Counsel to represent the respondents/complainants.

3. The case of the respondents/complainants is that the complainants are the parents of one Ms.J.Jawaharnisha @ Amina Ummal. Earlier, they have arranged her marriage with one Fairosedeem, and betrothal was conducted on 16.03.2014 and the marriage was fixed on 11.05.2014. They have also printed the marriage initiation.

4. In the meantime, the first accused and bridegroom's



mother came to the first complainant's mother-in-law house at Karaikal and asked them to stop the marriage on the ground that a criminal case is pending against the bride, before T.R.Pattinam Police Station. Thereafter, complainants came to know that the second accused in this case is stated to have given the said criminal complaint against the bride for alleged land grabbing and the said complaint has been closed directing the parties to approach a civil Court. Thereafter, the second accused filed a civil case against them and the same is pending. The second accused also approached the bridegroom's parents and informed them that a criminal case is registered against the bride and the same is pending. Believing the words of the second accused, the parents of the bridegroom stopped the marriage. Alleging that the other accused namely A3 to A7 who are closely related to A1, they all with a common intention joined along with A1 and stopped the marriage. In this regard a complaint has been filed for offences punishable under Sections 500, 506(i) r/w Section 34 of I.P.C. and the learned Judicial Magistrate No.II, Karaikal has also taken cognizance and the criminal proceedings in C.C.No.42 of 2015 is pending.

5. Mr.R.Natarajan, learned counsel appearing for the petitioners would submit that the petitioners are in no way related to the occurrence. The main allegation is only against A2, who is said to have filed a criminal complaint alleging land grabbing by the bride and thereafter a civil suit against the bride. A1 has only informed the parents of the bride / complainants that a criminal case is pending against the bride. So far as other accused are concerned, absolutely there is no accusation except some vague averments that with common intention they joined with A1 to stop the marriage.

6. The learned counsel for the petitioners further submitted that the allegation against A1 is that she has informed one of the relatives of the complainant that a criminal case is pending against the bride. Admittedly A2 has given a criminal complaint which was subsequently closed and parties were advised to approach the Civil Court and the same is pending. A1 is said to have stated is only a fact and she has not misrepresented. In the above circumstances, the provisions of Sections 499 and 500 of I.P.C. is not attracted and the criminal proceedings is liable to be set aside.

7. Ms.C.Uma Bhuvaeswari, learned Legal Aid Counsel submitted that the averments made in the complaint made out the offences against A1 and the other accused. She further submitted that it is only the A1 informed the parents of the bride that a criminal case is pending and asked them to stop the marriage. Hence the provisions of Sections 499 and 500 will get attracted against A1. She also further submitted that along with A1 the



other accused with a common intention acted together in stopping the marriage and hence Section 34 of the I.P.C. is also attracted.

8. I have considered the above submissions.

9. Perusal of the complaint, it could be seen that the main allegation is only against A2. Even as per the complaint, admittedly A2 is stated to have given a criminal complaint against the daughter of the complainants before the T.R.Pattinam Police Station, Karaikal, alleging land grabbing and after enquiry the complaint was closed and thereafter A2 approached the civil Court for redressal of her grievance and the said civil suit is now pending between A2 and the daughter of the complainants.

10. So far as the allegations against A1 is concerned, she only informed to the relatives of the complainants, that a criminal case is pending against the bride. It is an admitted fact that a criminal complaint has been given by A2 against the daughter of the complainants and it is not a false statement or misrepresentation and A1 has no intention to damage the reputation of the complainants. Hence the allegation made in the complaint prima facie will not attract Section 500 of I.P.C. So far as other petitioners namely A5 to A7 are concerned, except vague averments that with a common intention they jointed with A1 and stopped the marriage, there is no other material available on record they all have common intention and stopped the marriage.

11. In the above circumstances, I am of the view that there is no prima facie case made out against the petitioners to attract the offences under Sections 500 and 506(i) r/w. Section 34 of I.P.C. and the criminal proceedings against the petitioners/A1, A5 to A7 is only an abuse of process of law. Therefore, the criminal proceedings in C.C.No.42 of 2015 pending on the file of the learned Judicial Magistrate No.II, Karaikal is liable to be quashed as against the petitioners and accordingly the same is quashed as against the petitioners.

12. In the result, this criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar



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To

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The Judicial Magistrate No.II,
Karaikal.

+1cc to Mr.R.Natarajan, Advocate, S.R.No.59299

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BS (CO)
SB (07/12/2021)