

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.OP.No.7518 of 2015
and MP.No.1 of 2015

1. Kannadasan
2. Bakialakshmi

... Petitioners

Vs.

State rep by
The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

- 2.The Deputy Superintendent of Police,
Virudhachalam Police Station,
Cuddalore District.

... Respondents

Prayer : Criminal original petition is filed to call for the entire records relating to the SC.No.299 of 2014 on the file of the Sessions Judge, Mahila Court, Cuddalore District quash the same.

For Petitioners : Mr.D.Shivakumaran

For Respondents : Mr.V.Sharadha Devi,
GA (Crl.side)

Ms.Akila R.S.

for M/s.Sudha Ramalingam - LW1

ORDER

(This case has been heard through video conference)

This Criminal original petition is filed to call for the entire records relating to the SC.No.299 of 2014 on the file of the Sessions Judge, Mahila Court, Cuddalore District and to quash the same.

2. The case of the prosecution is that the deceased Hemavathi aged 24years belongs to Hindu Naidu community. The petitioner/1st accused belong to Vanniyar community. While the deceased was living with her parents at Virudhachalam and

studying 10th standard at Virudhachalam Girls Higher Secondary School, she got acquainted with the first petitioner which later developed into love. Coming to know of that the mother of the deceased LW1 had arranged marriage of her daughter with some one else. Whereas, the deceased insisted that she would marry the first petitioner only and due to the insistence of the deceased, LW1 agreed for the marriage. When arrangements were going on for the marriage, the first petitioner along with the other accused had demanded 20soverigns of gold jewels as dowry. When PW1 had expressed her inability to give 20soverigns, the accused had demanded 10soverigns which was later reduced to 5soverigns. PW1 was unable to give gold jewels and that demand was made for giving house hold articles. The marriage was performed on 14.12.2011 at Kolangiyappar Temple, Virudhachalam. At that time, the accused had created problem demanding 5soverigns of gold jewels. Later the deceased had become pregnant and even thereafter the accused had continued with the demand of dowry and committed cruelty on the deceased. Unable to bear the continued torture the deceased had committed suicide by self immolation on the night hours of 07/08.10.2012. At the time, the accused had stated that if only she dies they will live happily. Thereafter, the victim succumbed to the burn injuries on 12.10.2012. Initially, the case was registered under Section 174 Cr.PC and later after completion of investigation final report was filed against the accused for the offence under Section 304(B) IPC.

3. The learned counsel would submit that the petitioners are innocent and they have been falsely implicated since, LW1, the mother of the victim was antognised with them, since, they belong to different community and the marriage was performed against her wishes. However, even as per the charge sheet, the marriage was performed at the instance of the deceased, the daughter of LW1. LW1 who belong to different community was having continued grudge against the petitioners, since, she felt that the first petitioner had induced her daughter.

4. The learned counsel would submit that initially the case was registered under Section 174 Cr.PC as a case was accidental fire based on the statement of victim herself which itself is in the form of a dying declaration. The accident had happened at night hours of 07/08.10.2012 at 2.30am and immediately after the accident, the 1st petitioner is the one who had rushed the victim to nearby Government Hospital at Virudhachalam. The victim had given a statement to Doctor/Karthikeyan who is an independent witness stating that it was an accidental fire. After initial treatment the victim was referred to Jipmer Hospital, Pondicherry for further treatment. Immediately on information from Jipmer hospital, the respondent police had gone to the hospital and he had recorded the statement from the victim girl

and subsequently, the statement was recorded by the Deputy Superintendent of Police. In all the statements, the victim had stated it was only an accidental fire to fall of Kerosene chimney lamp on her and other than that she has not stated anything against any body.

5. Subsequently, on the intimation by the police, the dying declaration was recorded by the Judicial Magistrate on 11.10.2012 and even in that statement, the deceased had stated that she sustained burn injuries due to the accidental fire, whereas at later point of time for the reasons best known, the mother of the deceased/LW1 has given a false complaint as if there was demand of dowry and based on which a final report has been filed for the offences under Section 304(B) IPC.

6. The learned counsel would further submit that it is a clear case of false implication by LW1 who had a grudge against the petitioner and his family and also out of frustration that she had lost her daughter.

7. Per contra, the learned Government Advocate (Crl.side) would submit that the marriage between the victim and the first petitioner was performed on 14.12.2011 and the incident had happened on night hours of 7/8.10.2012 and the victim died on 12.10.2012. She would further submit that since the death was under unnatural circumstances within seven years of marriage, RDO enquiry had been conducted and RDO has concluded that there was prima facie evidence of dowry harassment by the petitioners. She would submit that inquest was conducted by the Executive Magistrate and he had concluded that there was prima facie evidence of dowry harassment by both the petitioners. He would further submit that death of the victim had happened within seven years of marriage and thereby there is a statutory presumption under Section 113A of the Indian Evidence Act, operating against the petitioners and at this stage the Court cannot conduct a mini trial to find out the veracity and truthfulness of the claim made by the petitioners while dealing and deciding with a petition under Section 482 Cr.PC and it could be only subject to full fledged trial by letting in evidence.

8. The learned counsel appearing for the intervenor LW1/mother of the victim would submit though it is a love marriage, after the marriage was fixed, there was demand of dowry and later the victim become pregnant and the accused had demanded further seervarisai from LW1. Apart from the statement of LW1 there are material to show that there was demand of dowry, LW3 to LW7 who are neighbours of the petitioners/accused and who belong to the same community as that of the petitioners have confirmed that there was demand of dowry. Further, the RDO

report is also against the petitioners. When there are sufficient materials to prove the charge, the proceedings cannot be interdicted by way of quash proceedings.

9. Heard the counsels.

10. Though certain valid points have been raised by the counsel for the petitioner, this Court is of the opinion that the grounds raised are matters which could be raised during trial. This Court at this stage cannot interdict the proceedings by invoking the provisions under Section 482 of Cr.PC.

11. With the above observation, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Sessions Judge, Mahila Court,
Cuddalore.

2.The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

3.The Deputy Superintendent of Police,
Virudhachalam Police Station,
Cuddalore District.

4.The Public Prosecutor,
High Court, Madras.

+2cc to M/s.Sudha Ramalingam, Advocate, S.R.No.21847
+1cc to Mr.D.Shivakumar, Advocate, S.R.No.21675

Cr1.OP.No.7518 of 2015

SV(CO)
CB(01/07/2021)