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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.10221 OF 2018

AND

CRL.M.P.NO.5210 OF 2018

1. Mohammed Rafic Settu
2. Settu
3. Firojab

... Petitioners

Versus

1. The State Represented by
The Inspector of Police
All Women Police Station
Anna Nagar, Chennai
(Cr.No.5 of 2016)

2. Dr.Arshiya

... Respondents

PRAYER :

Criminal Original Petition filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.9 of 2017 pending on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner ..Mr.T.Gowthaman

For Respondent ..Mr.S.Vinoth Kumar

Government Advocate Crl Side for R1

No appearance for R2

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.9 of 2017 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai for the offences under Section 498A read with Section 34 of IPC.

2. The first petitioner (A1) is the husband of the de facto complainant and petitioners 2 and 3 are father-in-law and mother-in-law of the de facto complainant. The case of the prosecution is that these petitioners have committed cruelty and demanded dowry from the de facto complainant. The



allegation against the second and third accused, who have been arrayed as A2 and A3, is that while the de facto complainant and first accused were residing in England from the year 2012-2015, they caused cruelty over the phone repeatedly. It is further averred that when the de facto complainant and the first accused came to Namakkal, re-marriage was conducted on 25.01.2015 in the presence of the witnesses and at that time also the accused have committed cruelty.

3. Learned counsel for the petitioners submitted that though FIR has been lodged as against other family members of the first accused including sister-in-law and brother-in-law also in the final report, their names in the FIR were dropped. It is the further contention of the learned counsel for the petitioners that the complaint is nothing but a mere abuse of process of law and the first petitioner and the de facto complainant never lived in India and they all along lived in UK till their separation. The entire allegations were made by the father of the de facto complainant, who was the retired Police official in the rank of DIG. The learned counsel for the petitioners further contended that similar allegations were made in the petition filed before the UK Court for domestic violence which was dismissed by the Court in UK and within one month thereafter, the present complaint has been filed at Anna Nagar Police Station through online and unnecessarily all the petitioners have been roped in.

4. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of Public Prosecutor.

5. This Court prima facie satisfied that the complaint has been filed with ulterior motive and false allegations have been made in order to wreck vengeance and such complaint cannot be allowed to continue and the prosecution of these petitioners is nothing but a clear abuse of process of law. The fact that the first petitioner (A1) and the de facto complainant were residing in England till 2015 is not even disputed. Only to show as if the cause of action arose within the jurisdiction of this Court, an averment has been made to that effect in the year 2015, the first petitioner (A1) and the de facto complainant married once again at Namakkal. This Court is of the view that such allegation itself is highly improbable and the same indicates that such a contention has been pressed into service only for jurisdictional purpose.

6. Be that as it may, statements of the witnesses show that the family members of A1 have caused cruelty over phone, but there was no details as to the specific allegations as against the family members of A1. The allegations are in general and omnibus and therefore, that itself clearly show that these



allegations were made out of matrimonial issue. Though, notices were sent to the de facto complainant by the Court, she has not appeared before the Court. This will show that she is not interested in the prosecution. In any event, a perusal of the entire final report shows that the allegations are omnibus and there is no specific overt act alleged against the family members. Though FIR has been laid against other family members of the first accused also, in the final report they have been dropped and only the parents were implicated along with the son. The contention that the domestic violence allegations, which have already been raised was rejected by the Court in UK, is not disputed by the prosecution before this Court. That being the case, this Court is of the view that this is a clear case of abuse of process of law.

7. Accordingly, this petition is allowed and the final report in C.C.No.9 of 2017 is quashed. It is also stated that the second petitioner has already expired and therefore, charges as against the second petitioner has already abated.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Chief Metropolitan Magistrate
Egmore, Chennai.
2. The Inspector of Police
All Women Police Station
Anna Nagar, Chennai.
3. The Public Prosecutor
Madras High Court
Chennai.

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Crl.M.P.No.5210 of 2018

PMK (CO)
PM/01/12/2021