

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 09.03.2021	Delivered on 12.03.2021
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.2371 of 2021
in
Crl.MP No.1309 of 2021

Madhumita Samantha
Wife of Mr.Sisir Kumar Samantha
Salt Lake Road,
West Bengal, Kolkata ... Petitioner / 2nd Accused

.Vs.

1. The State of Tamil Nadu,
Rep. By Inspector of Police,
W-19, AWPS Adyar
Chennai. ...1st respondent/complainant

2. Mrs.Sandipa Palit ...2nd respondent/complainant

PRAYER: Criminal Original petition has been filed under
Section 482 of Cr.PC to call for the records in Crime No.7 of
2019 on the file of the Respondent police and quash the same.

For Petitioner : Mr.A.R.L.Sundaresan
Senior Counsel for
M/s.AL.Gandhimathi

For Respondents: Mr.A.Natarajan
State Public Prosecutor Assisted by
Mr.M.Mohammed Riyaz
Additional Public Prosecutor for R1
Mr.R.Shumugasundaram
Senior counsel for
M/s.S.Manuraj for R2

O R D E R

This Criminal Original petition has been filed
seeking to quash the FIR in Crime No.7 of 2019, pending
investigation on the file of the 1st respondent.

2. The 2nd respondent has given a complaint to the
respondent police to the effect that she was married to A1 in
the year 1996 and she lived with him in USA. It is alleged
that she underwent continuous harassment and cruelty both

physical and Mental, in the hands of A1. It is further alleged that the petitioner, who is the sister of A1, had also committed acts of cruelty and she has been added in the FIR as A2.

3. The present quash petition has been filed before this Court primarily on four grounds and they are :-

(a) The marriage between the 2nd respondent and A1 was conducted at Kolkata and after marriage, they were living in USA and even assuming that the allegations are true, the present complaint at Chennai has been entertained without jurisdiction.

(b) The allegations against the petitioner (A2) does not constitute any offence and it does not satisfy the ingredients of Section 498 (A) of IPC.

(c) Based on the complaint given by the mother of the 2nd respondent, an FIR has been registered at Kolkata with respect to the very same allegations and there cannot be two complaints for the same offences. and

(d) The petitioner and her husband has been roped in without any basis and only with a view to arm twist them and make A1 come to terms with the 2nd respondent.

4. Heard Mr.A.R.L.Sundaresan, learned Senior Counsel appearing on behalf of the petitioner and Mr.A.Natarajan, learned State Public Prosecutor Assisted by Mr.M.Mohammed Riyaz, learned Additional Public Prosecutor for 1st respondent and Mr.R.Shumugasundaram, Senior counsel appeared for M/s.S.Manuraj for 2nd respondent.

5. In the present case, the FIR was registered in the year 2019 and the investigation has been going on from then and in fact, there was an alternation report filed on 11.02.2021, based on the materials collected during investigation by altering the offences as well as adding the husband of the petitioner as A3 in this case.

6. The Petitioner was also arrested in the course of investigation on 02.12.2020 and she was produced before the concerned Magistrate and the learned Magistrate refused to remand the petitioner to judicial custody and directed her to appear before the respondent police, as and when called for interrogation. According to the prosecution, the petitioner did not co-operate during investigation and hence, a petition to cancel the bail as also been filed before the concerned Court and the same is pending.

7. A detailed counter affidavit has been filed by the 1st respondent explaining the materials collected during the course of investigation. There are some incriminating materials against the petitioner also and this Court restrains

from pointing out those materials since it may influence the course of investigation and will cause prejudice to the petitioner.

8. Insofar as the jurisdiction issue raised in the present case, this Court is of the considered view that the respondent police has jurisdiction to investigate this case and it falls within the parameters stipulated by the Hon'ble Supreme in [Rupali Devi Vs.State of Uttarpradesh and others] in AIR 2019 SC 1790.

9. Most of the contentions that were put forth are purely factual in nature and the investigation has already progressed for nearly 1 ½ years and this Court cannot venture into conducting a mini investigation into the matter and it therefore does not fall within the ambit of its jurisdiction under Section 482 of Cr.P.C. Any finding on facts will also have a bearing on the investigation conducted by the respondent Police.

10. In the facts and circumstances of the case, this Court is not inclined to interfere with the investigation conducted by the respondent Police at this stage. The petitioner was not remanded by the learned Magistrate considering her age and also taking into consideration the fact that the issue on hand is a matrimonial dispute. Therefore, the petitioner is expected to co-operate during investigation. Unless, the petitioner comes forward and puts forth all the facts, the respondent police will not be able to come to a correct conclusion with regard to the role played by the petitioner in this case.

12. In the result, this Criminal Original Petition is dismissed and the respondent Police is directed to proceed further with the investigation in accordance with law and complete the investigation and file a final report or a closure report, as the case may be, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
The Inspector of Police,
W-19, AWPS Adyar

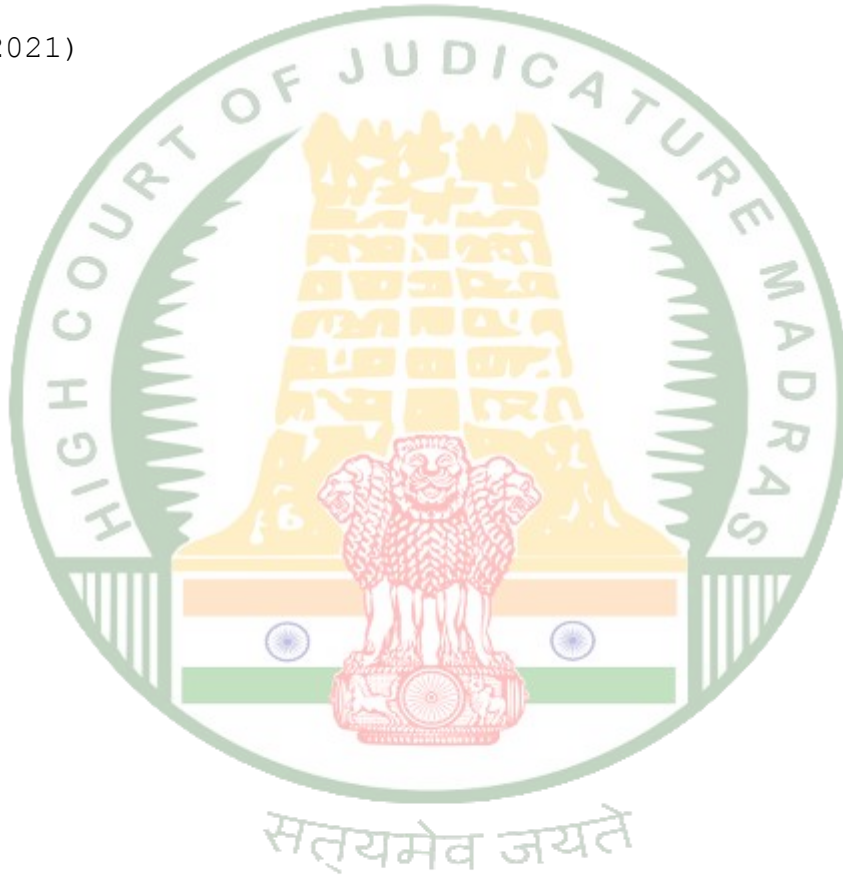
<https://hcservices.ecourts.gov.in/hcservices/>
Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Manuraj, Advocate, S.R.No. 15793
+1cc to Mr.AL.Gandhimathi, Advocate, S.R.No. 16326
+1cc to the Government Pleader, S.R.No. 16499

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PMK (CO)
GN (04/06/2021)



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