



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.8267 of 2016
and Crl.M.P.Nos.4308 and 4309 of 2016

P.Manavalan

.. Petitioner/Single Accused

Vs

1.State rep. by

The Station House Officer,
All Women Police Station,
Srikazhi, Nagapattinam District.
(Crime No.09 of 2015)

.. Respondent/Complainant

2.M.Vinothini

.. Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings of the Charge Sheet filed in C.C.No.258 of 2015, on the file of Judicial Magistrate, Sirkazhi in Crime No.09 of 2015, on the file of the first respondent and quash the same.

For Petitioner .. Mr.S.Kumara Devan

For R1 .. Mr.E.Raj Thilak
Additional Public Prosecutor

For R2 .. Mr.V.Srinivasan

ORDER

Heard Mr.S.Kumara Devan, learned Counsel for the petitioner, Mr.E.Raj Thilak, Additional Public Prosecutor, learned Counsel for the first respondent and Mr.V.Srinivasan, learned Counsel for the second respondent.



2. The petitioner/accused and the second respondent/defacto complainant are spouses. My learned predecessor had made efforts to reconcile the differences between them and I am informed that both of them appeared through Video Conferencing. They separated initially. They rejoined and thereafter, they were also blessed with twin male children. I am informed that there is also another child born to them. But, subsequently, differences again have arisen and they are now living separately.

3. It is the grievance of Mr.V.Srinivasan, learned Counsel for the second respondent that there are some issues with respect to payment of maintenance and orders have been passed by the competent Court, but, I am not invited to give any finding of these issues which the petitioner and the second respondent will have to agitate before that particular competent Court.

4. The present petition has been filed under Section 482 of Cr.P.C., seeking to quash C.C.No.258 of 2015, now pending on the file of the learned Judicial Magistrate, Sirkazhi. The said Calendar Case came to be taken cognizance on the basis of the final report, which was filed on the basis of an investigation conducted with respect to the allegations in a complaint, pursuant to which, F.I.R. in Crime No.9 of 2015 had been registered on 27.10.2015, under Sections 498-A, 506(i) of I.P.C by the first respondent herein. The complaint was given by the second respondent. Mr.S.Kumara Devan, learned Counsel for the petitioner drew my attention to the final report and it is seen that it had also been approved by the learned Additional Public Prosecutor Grade-II, I am deeply concerned with the manner in which final report was filed by the first respondent/the Station House Officer.

5. Section 498-A of I.P.C had been introduced as a fresh chapter and under the Chapter XX-A of I.P.C, to prevent cruelty to a woman, during the course of marital life, by her husband or by relatives of her husband directly or indirectly. This provision has come under consideration many times by various Courts and it had actually been stated in AIR 2002 SC 2078: (2002) 4 SCC 177, Girdhar Shankar Tawade Vs. State of Maharashtra, that the intent of this particular provision is clearly indicated in particular reference to explanation (b) that there shall have to be a series of acts in order to be a



harassment within the meaning of explanation (b). It had also been stated that if there is no cogent evidence to bring home the charge of Section 498-A, then, the said charge cannot be maintained.

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6. The primary ingredient is that there must be cruelty inflicted and under explanation (b), as pointed out by the Hon'ble Supreme Court, there must be a series of acts committed in order to be a harassment within the meaning of explanation (b) of the said provision.

7. In the present case, the final report only states that the petitioner herein had refused to live with the defacto complainant and therefore, caused mental cruelty, but, as a fact, they rejoined and were also blessed with twin male children which shows that there has been a reconciliation between the parties.

8. The other provision invoked is Section 506(i) of I.P.C, which, to the common knowledge of anybody in the profession of law would be evident that it has been added to give more colour for the primary offence committed than with any serious intent.

9. In 2019 2 MLJ (Cr1) 10 (SC): 2019 5 SCC 570, State of Madhya Pradesh Vs. Dhruv Gurjar and another, the Hon'ble Supreme Court reiterated the stipulations laid down in 2017 (9) SCC 641, Parbatbhai Aahir Vs. State of Gujarat, wherein the Hon'ble Supreme Court had very clearly stated that if an opinion can be formed that the criminal proceeding or a complaint would only be torturous experience between the parties and they can resolve the disputes between themselves, the High Court can exercise its inherent power. It was also held that if the possibility of a conviction is remote then the continuation of the criminal proceedings will only cause oppression and prejudice.

10. In the instant case, on the basis of the final report, the remoteness of a conviction was certainly made out even before my learned predecessor, when the parties are agreed to rejoin, but, thereafter, they separated. This fact only shows that there seems to be oscillation with respect to either living together or not living together. Institution of a complaint, necessitating a First Information Report to be registered and going through the ordeal of trial would certainly not be to the



advantage of both the two parties, if at all they, in the future, decide to reunite.

11. I would, therefore, interfere with the proceedings in C.C.No.258 of 2015, which is now pending on the file of the learned Judicial Magistrate, Sirkazhi and quash the same.

12. With the above said observation, the present Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

grs/kbs

To

1.The Judicial Magistrate,
Sirkazhi.

2.The Station House Officer,
All Women Police Station,
Srikazhi, Nagapattinam District.
(Crime No.09 of 2015)

+1cc to M/s.S.Kumara Devan, Advocate, S.R.No.48819

+1cc to M/s.OM Sai Ram, Advocate, S.R.No.48933

Cr1.O.P.No.8267 of 2016 and
Cr1.M.P.Nos.4308 and 4309 of 2016

SMI(CO)
SB(27/10/2021)