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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.4694 OF 2017
AND CRL.M.P.NOS.3548 & 3549 OF 2017

1.Mr.Anandadeep Mandal

2.Mr.Pravatranjan Mandal

3.Smt.Jhumur Mandal

..Petitioners

Vs.

Ms.Ruchi Sharma

..Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records of the proceedings in D.V.A.No.4 of 2016, on the file of the Judicial Magistrate No.V of Coimbatore and quash the same as illegal, incompetent without jurisdiction.

For Petitioners : Mr.T.Elumalai

For Respondent : Mr.P.Mahesh Kumar

ORDER

This Criminal Original Petition has been filed to call for the records of the proceedings in D.V.A.No.4 of 2016, on the file of the Judicial Magistrate No.V of Coimbatore and quash the same.

2. Heard learned counsel for the petitioners and learned counsel for the respondent.

3. The private complaint has been filed under Domestic Violence Act directing the petitioners 1 to 3 to return back the sum of Rs.16.5 lakhs and 8 sovereigns of gold which was taken by



them at the time of marriage and 10 sovereigns of gold given at the time of marriage which is in the custody of the petitioners No. 1 to 3 herein. Besides, Rs.1 crore as compensation for damages for the injuries, caused by the act of the Domestic Violence.

4.The learned counsel for the Petitioners submitted that this private complaint is nothing but result of frustration in the matrimonial life. The allegations in the complaint were pressed into service when the petitioners parted with the money and the alleging cruelty, coercion and payment of amount was also pressed into service without any evidence. Further, his contention that between the defacto complainant and her husband, the divorce proceedings were pending in H.M.O.P.No.14 of 2016 on the file of the II Additional Subordinate Judge, Coimbatore. After proper evidence, divorce was granted after full trial and the Court below has clearly recorded the fact that the allegations raised by both the husband and wife are not established and accordingly, the divorce was granted by mutual consent. Now, it is submitted that the defacto complainant had died. In such view of the matter nothing survives in this petition.

5.The learned counsel appearing for the respondent submitted that they made an application to implead the legal heirs of the defacto complainant on record and oppose this petition.

6.This Court has perused the entire materials available on record. Though general allegations are made, the application has been primarily filed before the Trial Court for return of amount of Rs.16.50 lakhs said to have been paid to the parents of the husband. But, in the complaint, it is nowhere the calculation has been arrived at, except few contentions in para 4 of the petition that certain amount has been spent towards the marriage amounting to Rs.8 lakhs. There is no whisper whatsoever made in the entire petition as to how Rs.16.5 lakhs could be arrived by the defacto complainant.

7. The fact remains that the matrimonial dispute has ended in H.M.O.P.No.14 of 2016 itself. The Trial Court has clearly indicated in para 8 of its judgment that the allegation levelled against each other as to the cruelty was not proved. Particularly, the allegation raised against the husband is not established as no evidence has been adduced before the Trial Court and concluded as though there was no domestic violence as against the wife by her husband. Therefore, the continuance of



the private complaint is abuse of process of law. Accordingly, this Criminal Original Petition is allowed and as a sequel, the proceedings in D.V.A.No.4 of 2016 is quashed. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msv

To

- 1 The Judicial Magistrate No.V,
Coimbatore.
- 2 The IInd Additional Subordinate Judge,
Coimbatore.

+lcc to Mr.P.Mahesh Kumar, Advocate, S.R.No.60349
+lcc to Mr.T.Elumalai, Advocate, S.R.No.60444

Crl. O.P. No.4694 of 2017
and Crl.M.P.Nos.3548 & 3549 of 2017

GPL(CO)
PM/16/12/2021