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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9979 of 2018

And

Crl.M.P.No.5109 of 2018

1.Vigneshwaran

2.Ramu

3.Saradha

...Petitioners

Vs.

1. State rep. by
The Inspector of Police,
All Women Police Station,
Villupuram.
(Crime No.30 of 2013)

2. Arunadevi

...Respondents

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records relating to C.C.No.531 of 2014 on the file of the Judicial Magistrate Court No.1, Villupuram and quash the same.

For Petitioners: Mr.K.Govi Ganesan

For Respondents: Mr.A.Gopinath for R1
Government Advocate (Crl. Side)
No Appearance for R2

O R D E R

The petitioner has filed this petition seeking to call for the records relating to C.C.No.531 of 2014 on the file of the Judicial Magistrate Court No.1, Villupuram and to quash the same.

2.The first petitioner is the husband of the second respondent, second petitioner is the father - in - law of the second respondent and the third petitioner is the mother - in - law of the second respondent. The facts of the case is that the marriage between the first petitioner and the second respondent



was solemnized on 06.02.2012 at Cuddalore. Soon after the marriage there was no compatibility inbetween them and the second respondent is alleged to have tortured the first petitioner and went away from the matrimonial home. Hence, the first petitioner filed H.M.O.P.No.45 of 2013 before the learned Principal Subordinate Judge, Cuddalore, seeking divorce. The said petition was allowed on 24.06.2014.

3.In the meanwhile, the second respondent lodged complaint before the first respondent as against the petitioners and one Kalpana/ sister of the first petitioner alleging that they demanded dowry of Rs.5 Lakhs and they threatened and attacked her using un-parliamentary words. The said complaint was registered as Crime No.30 of 2013 under Sections 498A, 506(ii) of I.P.C. and Section 4 of D.P.Act and after investigation, the first respondent filed charge sheet in C.C.No.531 of 2014 on the file of the Judicial Magistrate Court No.1, Villupuram. Challenging the same, the petitioners have filed this petition.

4.The learned counsel appearing for the petitioners submitted that matrimonial dispute arose inbetween the first petitioner and the second respondent as soon as their marriage and the first petitioner filed petition seeking divorce before the competent Court, in which the second respondent filed counter dated 01.12.2013. In the said counter, the second respondent has not disclosed any offence alleged to have been committed by the petitioners, however, lodged a false complaint as against the petitioners and one Kalpana/ sister of the first petitioner and the law enforcing agency also without conducting proper enquiry has mechanically filed the charge sheet, which is un-sustainable one.

5.The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the issue involved in the case is trialable issue which can be decided only at the time of trial and further submitted that conducting mini trial under Section 482 of Cr.P.C. is impermissible.

6.Heard the submissions made by the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the first respondent.

7.Though notice was sent to the second respondent, it was un-served and hence the petitioners were permitted to take notice to the second respondent through substituted service by way of paper publication. Even then, there is no representation for the second respondent. Hence, considering the pendency of the case, this Court proceeds with the case to decide the issue based on the materials available on record.



8.The facts of the case is not in dispute. Admittedly, the marriage between the first petitioner and the second respondent was solemnized on 06.02.2012 at Cuddalore and soon after the marriage, matrimonial dispute arose inbetween them and the first petitioner filed petition seeking divorce. Thereafter the second respondent lodged the complaint as against the petitioners and one Kalpana/ sister of the first petitioner alleging that they demanded dowry of Rs.5 Lakhs and they threatened and attacked her using un-parliamentary words. The second respondent has filed counter dated 01.12.2013 in H.M.O.P.No.45 of 2013 and in the said counter, the second respondent has not disclosed any offence alleged to have been committed by the petitioners. The allegations levelled as against the petitioners are also not properly proved. However, there are some allegations as against the first petitioner. Hence, I have no hesitation to quash the proceedings in C.C.No.531 of 2014 on the file of the Judicial Magistrate Court No.1, Villupuram, in respect of the petitioners 2 and 3.

9.At this juncture, the learned counsel appearing for the petitioners prayed that the appearance of the first petitioner before the Trial Court may be dispensed with.

10.Considering the request made by the learned counsel appearing for the petitioners, the appearance of the first petitioner before the Trial Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of the first petitioner for receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C. and judgment and as and when the Trial Court feels it necessary.

11.This criminal original petition is dismissed as against the first petitioner and allowed in respect of the petitioners 2 and 3. The proceedings in C.C.No.531 of 2014 on the file of the Judicial Magistrate Court No.1, Villupuram, is quashed in so far as the petitioners 2 and 3 are concerned. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court No.1,
Villupuram.

2. The Inspector of Police,
All Women Police Station,
Villupuram.
(Crime No.30 of 2013)

3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.45009/21

Cr1.O.P.No.9979 of 2018
And
Cr1.M.P.No.5109 of 2018

JPL(CO)
RGA(12/10/2021)