

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.1311 OF 2018

AND

CRL.M.P.NO.473 OF 2018

1.K.Sachithanandam
2.K.Jeeva
3.M.Sumathi
4.K.Dhilaka
5.K.Viruthampal
6.K.Dhanam

.... Petitioners

- Vs -

1. The State, rep. by
The Station House Officer,
All Women Police Station,
Thiruvannamalai District,

2. B.Pradeepa

.... Respondents

Prayer:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the FIR in Crime No.11 of 2017 on the file of the first respondent herein and quash the same.

For Petitioners: Mr.S.Kumaradevan

For Respondents: Mr.Shanmuga Rajeshwaran
Govt.Advocate(Crl.Side), for R-1

ORDER

The petitioners are arrayed as A-1 to A-6 in Crime No.11 of 2017 on the file of the 1st respondent. It is the case of the petitioners that A-1 is the husband of the defacto complainant and A-2 to A-6 are the sisters-in-law of the defacto complainant and the sister of A-1. It is the allegation of the defacto complainant that A-1, while working as constable in the Police Department, fell in love with the defacto complainant and had physical relationship with her on several occasions promising to marry her. However, he did not keep up the said promise and

refused to marry her, which led to the defacto complainant lodging a complaint before the law enforcing agency. The matter was taken up by the law enforcing agency and, thereafter, the matter was amicably settled by A-1 marrying the defacto complainant and the defacto complainant and A-1 started living in her mother's house.

2. It is the further allegation of the defacto complainant that A-1 had illicit relationship with one Aasha even after marriage and when the same came to the knowledge of the defacto complainant, a complaint was lodged by her before the Deputy Superintendent of Police. But the defacto complainant was threatened over phone by A-2 to A-6 to withdraw the complaint and come and live with A-1, leading to the registration of the case in Crime No.11 of 2017 on the complaint of the defacto complainant. Challenging the same the present petition is filed.

3. The learned counsel appearing for the petitioners submit that though serious allegations have been made only against A-1, however, no allegations have been made against A-2 to A-6, who are the sisters-in-law of the defacto complainant and only with a view to rope them into the offence, a stray allegation was made as if A-2 to A-6 threatened the defacto complainant with dire consequences. It is the submission of the learned counsel for the petitioners that there is no proof to substantiate the same and even according to the respondent, the threatening is said to have been made over phone, however, no particulars in relation to the said phone call has been given in the complaint. Therefore, the act of the law enforcing agency in bringing A-2 to A-6 into the crime has no legal legs to stand and that A-2 to A-6 are innocent and, accordingly, prays that the case insofar as A-2 to A-6 be allowed by absolving them from the crime.

4. The learned Government Advocate (Criminal Side) appearing for the 1st respondent submitted that based on the complaint given by the defacto complainant, in view of the cognizable nature of the offence, the complaint has been registered in Crime No. 11 of 2017 and that investigation is yet to be completed.

5. This Court heard the submissions of the learned counsel for the petitioner and the learned Government Advocate appearing for the 1st respondent and also perused the materials available on record.

6. The fact that A-1 is the husband of the defacto complainant is not disputed. The entire affidavit filed in support of the present petition only reveals that the complaint had been given by the 2nd respondent against the petitioners on

the ground that her husband, viz., A-1, is having an illegal affair with one other lady. In this backdrop, a perusal of the FIR reveals that while the defacto complainant had stated about the manner in which her marriage with A-1 was solemnised, had gone on to further state about the illicit intimacy of A-1 with one Aasha and the defacto complainant had gone on to state that A-1 is trying to marry the said Aasha for which A-2 to A-6 are helping A-1 by threatening her over phone. Apart from the stray complaint that A-2 to A-6 had threatened her over phone, the FIR does not disclose any other material, which points a finger on A-2 to A-6 in relation to committing any cognizable offence.

7. True it is that many allegations have been levelled against A-1, which are cognizable in nature, which have been detailed in the complaint by the defacto complainant. However, there is no iota of material, which in any way implicates A-2 to A-6 with regard to commission of any offence of cognizable nature. The entire FIR proceeds only implicating A-1 in the offence, but for the stray allegation made against A-2 to A-6. In such a scenario, this Court is of the considered view that the allegations made against A-2 to A-6 are not only bald allegations, but also bereft of any tangible material, which implicates A-2 to A-6 and, therefore, the inclusion of the names of A-2 to A-6 in the FIR, leading to the registration of Crime No.11 of 2017 against them, cannot be sustained.

8. For the reasons aforesaid, the petition insofar as petitioners 2 to 6 are concerned is allowed and the FIR in Crime No.11 of 2017 on the file of the 1st respondent is liable to be quashed in respect of petitioners 2 to 6, who are A-2 to A-6 in the above crime. Insofar as the 1st petitioner, who is arrayed as A-1, is concerned, the petition for quashment is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msm/GLN

To

1. The Inspector of Police, A.W.P.S.
Sriperumbudur
Kancheepuram District.

2. The Public Prosecutor
High Court of Madras
Chennai.

+1cc to Mr.S.Kumaradevan, Advocate, S.R.No.22594

CRL.O.P.NO.1311 OF 2018

SMI (CO)
CS/06/07/2021



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