

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

CrI.O.P.No. 1436 of 2018 and
CrI.M.P.Nos.529 & 530 of 2018

K.Vimalraj

... Petitioner/A4

Vs.

1.State represented by:

The Inspector of Police,
Inspector of Police, A.W.P.S.
Sriperumbudur,
Kancheepuram District,
Crime No.6 of 2015.

...1st Respondent/Complainant

2.Sindhiya

...2nd Respondent/Defacto Complainant

Prayer:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.122 of 2017 pending investigation on the file of the District Munsif Cum Judicial Magistrate, Sriperumbudur in Crime No.6 of 2015 on the file of the Inspector of Police, A.W.P.S., Sriperumbudur, Kancheepuram District.

For Petitioner/A4 : Mr.R. Rajan
For R1 : Mr.Shanmuga Rajeshwaran
Government Advocate

For R2 : Mr.V.Nithianandam

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O R D E R

The case of the prosecution is that the A-1 is the husband of the de-facto complainant; A-2 is the mother-in-law and A-3 and A-4 are the brothers of A-1. The de-facto complainant married A-1 on 02.10.2014 at Arakkonam in V.S.Isac Educational Institution. During marriage, the defacto complainant's father gave Streedhana articles worth Rs.5,00,000/- to A-1. After the

marriage, A-1 and the defacto complainant were living separately and subsequently, the defacto complainant gave birth to a female child. Thereafter, A-1 demanded dowry of Rs.5,00,000/- and 20 sovereigns of gold from the defacto complainant. Moreover, all the accused persons herein harassed the defacto complainant, abused her in filthy language and also threatened her. Hence the complaint.

2. Based on the complaint, case was registered and investigation was taken up and the first respondent police filed the charge sheet, which is yet to be taken up on file by the learned Judicial Magistrate, Sriperumpudur, Kancheepuram District. Aggrieved by the same, the present petition has been filed for quashment. Petition.

3. The learned counsel for the petitioner submitted that though several allegations have been made against A-1 to A-3, however, a perusal of the statement recorded u/s 161 Cr.P.C. does not disclose any allegation against A-4. However, A-4 has unnecessarily been roped into this case and, therefore, the petition deserves to be allowed.

4. The learned Additional Public Prosecutor vehemently opposed the relief sought for and submitted that merely because allegations have not been made against A-4 in the statement recorded u/s 161 Cr.P.C., would not by itself absolve the petitioner from the case, as the investigation disclosed the nexus of A-4 in the commission of offence.

5. It is not in dispute that the marriage between the defacto complainant and A-1 was solemnized on 02.10.2014 pursuant to which the defacto complainant gave birth a female child. It further transpires that thereafter, matrimonial discord arose between A-1 and the defacto complainant relating to demand of dowry and jewels and in the said act, A-2 and A-3 also participated, which led to the filing of the present complaint. However, the grievance of the petitioner herein is that there is no allegation against him in the statement recorded from the defacto complainant u/s 161 Cr.P.C.

6. To find out whether the defacto complainant has raised any allegation even at the first instance, this Court perused the statement of the defacto complainant made under Section 161 of Cr.P.C. Even a bare perusal of the said statement made under Section 161 Cr.P.C., by the defacto complainant reveals that allegations have been made only against A-1. There is not even an iota of allegation made against the petitioner, though there are general and sweeping allegations against the family. However, there is no pointed allegation against the petitioner, who is alleged to be the brother of A-1. In the absence of any

allegation against the petitioner, arraying the petitioner as an accused and proceeding against him is wholly impermissible and would be a travesty of justice to the petitioner. In such circumstances, this Court is of the considered view that the present petition deserves to be allowed.

7. For the reasons aforesaid, the criminal original petition is allowed and C.C.No.122 of 2017 pending investigation on the file of the District Munsif-cum- Judicial Magistrate, Sriperumbudur in Crime No.6 of 2015 on the file of the Inspector of Police, A.W.P.S., Sriperumbudur, Kancheepuram District is quashed insofar as the present petitioner is concerned. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

msm/GLN

To

- 1.The District Munsif-cum-
Judicial Magistrate
Sriperumbudur, Kanchipuram Dt.
- 2.-do-Thro' The Chief Judicial Magistrate,
Kancheepuram.
- 3.The Inspector of Police, A.W.P.S.
Sriperumbudur,
Kancheepuram District,
Crime No.6 of 2015.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.R.Rajan, Advocate, S.R.No.22597

Cr1.O.P.No. 1436 of 2018

RSI (CO)
CB(05/07/2021)