

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.OP.No.6686 of 2021 &

Crl.MP.Nos.4456 & 4457 of 2021

1.G.Rajasekhar

2.G.Balaiah

3.G.Dhanalakshmi

... Petitioners/Accused No.1 to 3

Versus

1.State represented by
The Inspector of Police,
W-17 Sembium,
AWPS, Peravallur,
Chennai - 600 082.
(Crime No.5/2017)

2.B.Keerthi ... Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to CC.No.14/2021 on the file of Metropolitan Magistrate Additional Mahila Court, Egmore, Chennai and to quash the final report filed by the respondent against the petitioners.

For Petitioners : Mr.P.V.Sanjeev

For R1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioners/accused in CC.No.14 of 2021 who are facing trial for the offences punishable under Section 498A of IPC have filed this quash petition. The first petitioner is the estranged husband of B.Keerthi, defacto complainant and second and third petitioners are in-laws.

2. The contention of the learned counsel for the petitioners is that the allegations made against the petitioners is with regard to the defacto complainant taking up vaccination for Hepatitis, which was during February 2016 and marriage had taken place on 25.03.2016. He further submitted that from the reading of the complaint, it is seen that the defacto complainant had made allegations only against her in-laws and nothing against the petitioner. As regards the father-in-law and mother-in-law, the learned counsel for the petitioners was relying upon the

finding given by the Mahila Court in DVC.No.421 of 2017 in the order dated 1.2.2018. With regard to the domestic relationship, it had held that since the first petitioner and the defacto complainant had set up a separate house, left the second and third petitioners and living separately, there is no domestic relationship between the petitioner and the second and third petitioners. Hence, Mahila Court had clearly held that there is no domestic relationship and there is no prima facie case made out against the second and third petitioners.

3. The learned Additional Public Prosecutor on the contrary, had submitted that after the complaint, the case has been registered, investigation conducted. LW1 is the defacto complainant, LW2 and LW3 are the parents of the defacto complainant. LW4 is the sister of LW1. LW1 to LW4 had clearly stated about the mental and physical harassment caused to the defacto complainant and as per the Section 498A of IPC, the cruelty can be either mental or physical factor, which factum can be decided only during trial. Hence, this is the fact that can be decided only after evidence is recorded and not in a quash petition. Further LW5 is a family friend, who corroborates the evidence of LW1 to LW4. Hence he opposed the quash petition.

4. Considering the submissions made on either side, it is seen that the petitioners are proceeded against 498A of IPC and the points raised by the petitioner are factual in nature. It is to be decided only after full fledged trial and not in a quash petition. In view of the same, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

5. The learned counsel for the petitioners requested this Court to dispense with the presence of the second and third petitioners. Taking into consideration, the facts and circumstances of the case, the presence of the second and third petitioners is dispensed with and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The second and third petitioners shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgment.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Metropolitan Magistrate,
Additional Mahila Court,
Egmore, Chennai

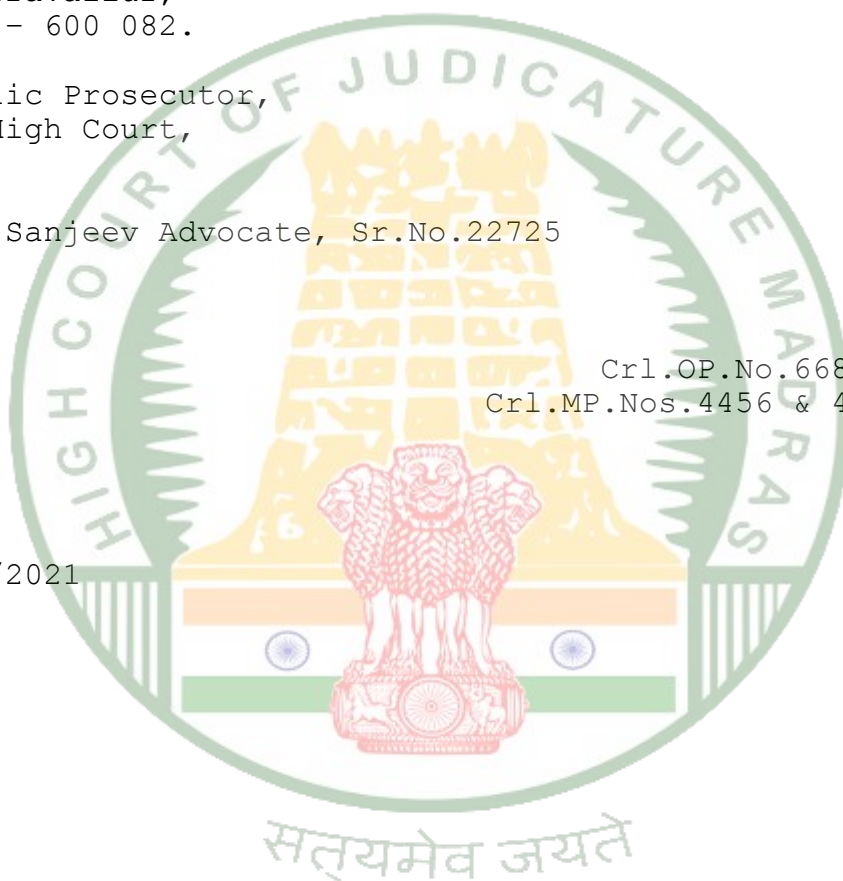
2.The Inspector of Police,
W-17 Sembium,
AWPS, Peravallur,
Chennai - 600 082.

3.The Public Prosecutor,
Madras High Court,
Chennai.

+cc to PV.Sanjeev Advocate, Sr.No.22725

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PL(CO)
baf 11/05/2021



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