



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.7221 of 2019

and

Crl.M.P.Nos.3984 & 3985 of 2019

1. S.Kamal Chand
2. Saroja Bai
3. D.Senekraj Chordia
4. S.Gokulkumar
5. Prathiba

...Petitioners/Petitioners/
Petitioners/Accused

Vs.

Sushmitha @ Payalkumari

...Respondent/Respondent/
Respondent/Complainant

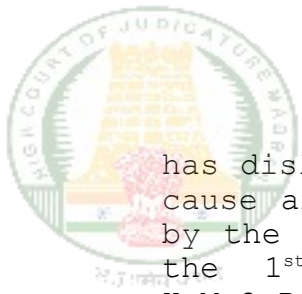
PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 07.02.2019 made in CRP.No.34 of 2016 on the file of the learned Principal Sessions Judge, Cuddalore confirming the order dated 30.08.2016 made in Crl.M.P.No.1493 of 2015 in C.C.No.97 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Parangipettai by allowing this criminal original petition.

For Petitioners : Mr.N.Manokaran
For Respondent : Mr.B.Jawahar

O R D E R

The petitioners have filed this petition seeking to set aside the order dated 07.02.2019 made in CRP.No.34 of 2016 on the file of the learned Principal Sessions Judge, Cuddalore confirming the order dated 30.08.2016 made in Crl.M.P.No.1493 of 2015 in C.C.No.97 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Parangipettai.

2. The case of the petitioners is that the 1st petitioner and the respondent got married on 23.04.2014 and they were blessed with two sons. First son, viz., Ajay Veevyn was born on 31.05.2005 and second son, viz., Vijay Veevyn was born on 30.12.2009. However, right from the inception, the respondent



has disliked the company of the 1st petitioner for no justifiable cause and the 1st petitioner has tolerated the cruelty committed by the respondent for sometime and unable to overcome the same, the 1st petitioner has filed a petition for divorce in H.M.O.P.No.177 of 2013, on the file of the learned Principal Sub Judge, Villupuram. Further it is alleged by the petitioners that pending H.M.O.P.No.177 of 2013, the respondent had filed a complaint dated 26.11.2013 before the Protection Officer, District Social Welfare Office, Cuddalore, alleging that she was subjected to harassment at the hands of the petitioners and the said petition was forwarded to the learned District Munsif Cum Judicial Magistrate, Parangipettai for necessary action. Accordingly, the said complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005, was taken on file in Crl.M.P.No.5731 of 2013. While so, the respondent had filed another petition dated 10.01.2014 under Section 23 of the P.W.D.V.A Act, 2005, seeking custody of the first son S.K.Ajay Veevyn and the said petition was taken on file in C.M.P.No.130 of 2014 and after contest, it came to be allowed in favour of the respondent on 26.05.2015. Subsequent to that, the respondent has also filed a private complaint in C.C.No.97/2014, on the file of the learned Judicial Magistrate, Parangipettai, against the petitioners for the alleged offence under Sections 294(b), 448, 498A, 406 IPC r/w. Section 4 of the Dowry Prohibition Act and Section 4 of the TN PWH Act. Challenging the same, the present petition is filed and further the petitioners have filed Crl.M.P.No.1493 of 2015 to discharge them from the prosecution and the same was dismissed on 31.08.2016. Aggrieved by the same, the petitioners have also filed CRP.NO.34 of 2016, however, the said petition also dismissed by the Lower Court without any sufficient cause. Hence, challenging the said dismissal order, the petitioner is before this Court by filing this petition.

3. Though the above grounds have been raised by the learned counsel for the petitioners, however, this Court is of the opinion the issue is a triable issue and the grounds raised by the counsel for the petitioners are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioners to raise all the grounds before the Court and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

4.It is represented by the learned counsel appearing for the petitioners that this Court may issue a direction to the Trial Court to expedite the trial and complete the same as early as possible. He would further submit that the appearance of the petitioners before the Trial Court may be dispensed with.



5. Accordingly, this petition is disposed of directing the trial court to dispose of C.C. No.97/2014 as expeditiously as possible as per seniority of the case. The petitioners and respondent are directed to co-operate with the trial court for the early completion of trial. Further, taking into consideration the request as made by the learned counsel for the petitioner, his appearance before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Cuddalore.
2. The District Munsif cum Judicial Magistrate,
Parangipettai.
3. The Public Prosecutor(Crl side),
High Court, Madras.

+1cc to Mr.B.Jawahar, Advocate, S.R.No.48797
+1cc to Mr.N.Manokaran, Advocate, S.R.No.42212

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and
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NSK 11/11/2021