



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 20222 of 2017 and
Crl.M.P.Nos.12148 and 12149 of 2017

1.Subba rao

2.Venkata Subbamma

...Petitioners/Accused 2 & 3

Versus

1.State Represented by

The Inspector of Police,
Kelambakkam, All Women's Police Station,
Kelambakkam, Kachipuram District.
Crime No.2/2017

..1st Respondent/Complainant

2.Sridevi

...2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.10 of 2017 on the file of the judicial Magistrate, Additional Magalir Neethimandram, Chengelpet, and quash the same.

For Petitioners: Mr.M.L.Ramesh

For Respondents: Mr.R.Kishore Kumar
Govt Advocate Crl.Side for R1

: Mrs.AL.Ganthimathi for R2

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.10 of 2017, filed against the petitioner for the offence under Sections 498-A, 494, 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 on the file of the learned judicial Magistrate, Additional Magalir Neethimandram, Chengalpet.



2. The crux of the prosecution case is as follows: The petitioners are the in-laws of the de-facto complainant. The case of the prosecution is that, at the time of marriage of the de-facto complainant with A1, who is the son of the petitioners, A1 and the petitioners together have received 120 Sovereigns of Gold ornaments, 2 grounds of land and some other properties, as sridhana and thereby committed an offence under Section 498-A of IPC. Thereafter, the de-facto complainant was subjected to cruelty in the hands of the accused. Hence charges were framed for various offences, as referred above.

3. The learned counsel appearing for the petitioners, mainly contended that, even in the First Information Report, absolutely there is no allegation made against the petitioners herein, who are residing elsewhere, right from the year 1995. All the allegations have been targeted only against her husband. Even in the Domestic Violence complaint initiated on the same allegations, the de-facto complainant and his sister have categorically admitted that the petitioners were residing separately from the year 1995. Therefore, the allegation of the prosecution that these petitioners have also allegedly made some oral remarks in the flat, is highly improbable and that the petitioners have been unnecessarily roped in the complaint and prosecuted.

4. Heard both sides and perused the entire materials available on record.

5. Normally, this Court will not interfere with the final report, when the materials unearthed by the prosecution indicate the necessary charges and materials are produced against the accused. But, at the same time, when the entire materials collected by the prosecution is highly improbable and highly motivated only for the purpose of robbing the petitioners, the court can very well interfere with the same by exercising its jurisdiction under Section 482 Cr.P.C. and quash the final report.

6. The entire allegation in the First Information Report and the statement of the de-facto complainant mainly targeted against her husband for causing loss of various properties and also committing the acts of alleged cruelty against the de-facto complainant. Though the prosecution has stated that some neighbours said to have given a statement to the effect that these petitioners being in-laws also scolded the de-facto complainant in one occasion, their statement is bereft of any



details, but the fact remains that the Domestic Violence case lodged by the de-facto complainant against the petitioners, were already decided in one of the proceedings before the trial Court.

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7. The de-facto complainant herself has admitted that these petitioners are residing separately from 1995 and she has also admitted in her cross examination that she is maintaining a good relationship with the petitioners. When her sister was examined as one of the witness before the trial Court, she has also admitted that husband and wife are residing separately and the petitioners are not residing with them. When substantive evidence was given by the de-facto complainant on the same allegations before the other court, the same cannot be ignored altogether, though the statement of the living position, is subject to the proof. But the fact remains that her own complaint, which culminated into a final report mainly targeted against her husband for causing loss and leading extravagant life.

8. In such view of the matter, when the de-facto complainant herself asserted that the petitioners are residing somewhere else, continuing the prosecution against her in laws, who have no role to play, when the husband and wife are living separately and the prosecution against the petitioners is nothing but an abuse of process of law. Hence, the proceedings in C.C.No.10 of 2017 on the file of the learned judicial Magistrate, Additional Magalir Neethimandram, Chengelpet, is quashed.

9. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

psa/asr
To

1. The judicial Magistrate,
Additional Magalir Neethimandram,
Chengelpet.



2.The Inspector of Police,
Kelambakkam, All Womem's Police Station,
Kelambakkam, Kachipuram District.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.M.L.Ramesh, Advocate sr 65237

+1 CC to M/s.A.L. Gandhimathi, Advocate sr 65634

Cr1. O.P. No. 20222 of 2017

GPL(CO)
SP(23/12/2021)