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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos.2079 of 2017 and 2851 of 2019

and

Crl.MP.Nos.1490 and 1491 of 2017 and 1873 of 2019

1.Thangaraj,
S/o.Perumal

2.Easwari,
W/o.Thangaraj

3.Suryaganthi,
W/o.Perumal

4.Magudeswaran
S/o.Vellaisamy

5.V.M.Shankar,
S/o.Magudeswaran

...Petitioners/Accued 2 to 6
(in Crl.OP.No.2079/2017)

Vijay,
S/o.Thangaraj

...Petitioner/Accused-1
(in Crl.OP.No.2851/2019)

Vs.

1.The Inspector of Police,
All Women Police Station,
Erode, Erode District.
Crime No. 9 of 2016

...1st Respondent/Complainant in
both Crl.O.Ps

2.Kowsalya,
D/o.Selvam

...2nd Respondent/Defacto Complainant
(in both Crl.OPs)

Common Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the Charge sheet in C.C.No.97 of 2016 on the file of Judicial magistrate Court No.I, Erode and quash the same.



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For Petitioners : Mr.M.Palanivel
(in both Crl.OPs)

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)
(in both Crl.OPs) for R1

COMMON O R D E R

The petitioners filed the present petitions to quash the FIR in Crime No.9 of 2016. The respondent police has filed a charge sheet against the petitioners, which was taken on file in C.C.No.97 of 2016 by the learned Judicial Magistrate No.1, Erode.

2.The case of the prosecution is that the Vijay/A1 in Crl.O.P.No. 2851 of 2019 and defacto complainant/second respondent was having love affair with each other, While so, they married each other without the knowledge of their parents. During the time of marriage, the defacto complainant was a minor girl and on knowing the same, the A1 and his family members assured the defacto complainant to perform her marriage with A1 on her attaining the age of lawful marriage in accordance with law. In pursuant to that on 04.07.2015, after attaining majority, the second respondent went to the house of A1 and asked him to marry her, but, the first accused refused to marry her, due to which, the petitioner along with other accused alleged to have abused the defacto complainant in filthy language and threatened her. Hence, the present petition.

3.The learned Counsel for the petitioners submits that the petitioners have not committed any such offence as alleged by the prosecution and he further submits that there was no such marriage performed between A1 and the defacto complainant as alleged by the prosecution. He further submits that the defacto complainant filed the false complaint only for extracting money from the petitioners and it is only the defacto complainant who approached the first petitioner/vijay and expressed her love, but, when he refused her lover affair, she continuously tortured him to marry her. He further submits that now, A4/grand-mother of A1 in this case is aged about 70 years and she was no way connected with this case. The learned counsel for the petitioner further submits that 5th petitioner/A6 is the paternal uncle's son of A1 and he has been falsely implicated in this case and his personal appearance before the Trial Court may be dispensed with.



4. The learned Government Advocate (Crl.Side) raised objection stating that the first petitioner/Vijay given a false promise to the defacto complainant to marry the victim girl after attaining majority, but after attaining 18 years, when she approached the first petitioner/Vijay to marry her, the first petitioner/ A-1 and his family members refused to marry her and scolded her with filthy languages. Hence an FIR was filed and the charge sheet was taken on file before the trial Court. Due to the non cooperation of the petitioners, the case was pending before the Trial Court.

5. Heard both sides. On perusal of the available records which reveals that now the third petitioner/A4 is aged about 72 years and no such overt act against her in the entire charges. Thereby, the proceedings against A4 is quashed.

6. With regard to A6, he is the paternal uncle's son of A1 and he has been falsely implicated in this case but as per FIR, he also present at the time of alleged occurrence, without any proof, this Court cannot come to the conclusion that whether the fifth petitioner/A6 was involved in this case or not and on seeing his age and his graduation, his personal appearance before the Trial Court is dispensed with for the present.

7. In the result, the proceedings against third petitioner in Crl.O.P.No.2079 of 2017 /A4, is hereby quashed and the personal appearance of the fifth petitioner in Crl.O.P.No.2079 of 2017/A6 is dispensed with. In respect of A1/petitioner in Crl.OP.No.2851 of 2019 and in Crl.OP.No.2079 of 2017, A2, A3, and A5, A6 are concerned, the petitions are dismissed. This Court further directs the trial Court to dispose this case within a period of three months from the date of receipt of copy of this Order.

8. These petitions are disposed of accordingly with the above directions. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



pbl
To

1. The Judicial Magistrate - I,
Erode.

2. The Inspector of Police,
All Women Police Station,
Erode, Erode District.

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

+1 CC to Mrs.C. Maria Hermina, Advocate sr 59926.

Crl.O.P.Nos.2079 of 2017 and 2851 of 2019
and

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GPL(CO)

SP(23/12/2021)