



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.6669 of 2017

and

Crl.M.P.Nos.4885 & 11618 of 2017

Mr.Dawood Ali Mirza

..Petitioner

Vs.

1. The State Rep.by
Inspector of Police,
W-8, All Women P.S.,
Thirumangalam
Chennai
(Cr.No.9 of 2016)

2. Mrs.Shahila Assadi Mirza

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records and quash the FIR in Cr.No.9 of 2016, on the file of the Inspector of Police, W-8, All Women P.S., Thirumangalam, Chennai-600 040.

For Petitioner : Mr.M.Mohammed Rafi

For Respondent : Mr.S.Vinoth Kumar
Government Advocate(Crl.side) for R1

No appearance for R2

ORDER

This criminal Original Petition has been filed to call for the records and quash the FIR in Cr.No.9 of 2016, on the file of the Inspector of Police, W-8, All Women P.S., Thirumangalam, Chennai-600 040.

2.The case of the prosecution is that the petitioner



is a NRI, employed at Dubai and lives in Dubai. The second respondent also lives and employed at Dubai. They both met in Dubai in the year 2010 and they fell in love. The marriage was subsequently arranged by the elders of both the families. As such, the petitioner and the 2nd respondent/defacto complainant got married on 19.08.2013 at Mumbai. Thereafter, they came down to Chennai for few days for reception as the petitioner was originally from Chennai and their relatives were in Chennai. After that, they moved to Dubai and started living at Dubai.

(ii).While so, difference of opinion arose between them, consequently, second respondent left the matrimonial home in Dubai on 27.12.2014. Thereafter, the second respondent lodged a complaint with Indian Embassy in Dubai. Then having left Dubai, on reaching India, the second respondent lodged a complaint with the Ministry of Foreign Affairs in Delhi. Thereafter, she started to living with her mother at Mumbai.

(iii) The main allegation of the defacto complainant is that her husband treated her in a cruel manner and her Mother-in-law also said that if marriage of her son was not a love marriage, she would have arranged for a marriage by herself and she might have received a sum of Rs.50 lakhs. The other allegation pressed into service is that her husband is an Alcoholic and he has not spent time with her and one more allegation is that her Mother-in-law, while staying with her, insisted her to serve food to the Cook. Hence, the entire allegation of the defacto complainant is that she was subjected to cruelty.

3. Heard the learned counsel for the petitioner and the learned Government Advocate(Crl.Side) for the first respondent.

4. Learned counsel for the petitioner submitted that the original complaint was lodged in Mumbai, the same was transferred to Chennai as the parental house of the petitioner was in Anna Nagar, Chennai. Hence it is his contention that the complaint has been lodged without any details. Further, both of them were residing at Dubai and they were separated before the Dubai Courts and divorce order has been obtained in the year 2017 itself. To substantiate the same, the copy of the order passed by the Dubai Courts is also placed before this Court.

5. On perusal of the entire FIR, this Court is of the view except general allegation that her Mother-in-law has scolded her and insisted her to serve foods to the cook, there is no specific overt act as to the nature of the cruelty. Similarly, her Mother-in-law insisting her to serve food to the cooks cannot be construed as a cruelty at all. The other allegation that her husband does not spend time is a trivial



issue in the family matter, particularly, those issues happened only in Dubai when the couple was living in Dubai, and no such thing happened within the jurisdiction of this Court. Having regard to the fact that the parties themselves have been separated by orders of the Dubai Courts, keeping FIR pending will not serve any purpose.

6. Despite service of notice, none appeared for the second respondent. The Investigation Officer was also directed in the last hearing to make enquiry about her. According to the learned Government Advocate(Crl.Side), on their enquiry, it was found that the defacto complainant permanently settled at Dubai. The said statement is recorded. In such view of the matter, it is fit case to quash the F.I.R.

7. Accordingly, FIR in Cr.No.9 of 2016, on the file of the Inspector of Police, W-8, All Women P.S., Thirumangalam, Chennai-600 040 is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msv/nr

To

1. The Inspector of Police,
W-8, All Women P.S.,
Thirumangalam
Chennai.
2. The Public Prosecutor,
High Court, Madras.

Crl. O.P. No.6669 of 2017
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GSM(CO)
SU(07/12/2021)