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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.14747 OF 2017

AND

CRL.M.P.NO.9331 OF 2017

1. A.K.Radha
2. A.A.Radhakrishnan
3. A.A.Ramadevi

... Petitioners

Versus

1. The State represented by,
The Inspector of Police,
B-14, Kuniyamuthur Police Station,
Coimbatore - 641 002.

2. K.Nandhini Devi

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with C.C.No.380 of 2008 on the file of the Learned Judicial Magistrate No-VII, Coimbatore and quash the same as against the petitioners.

For Petitioners : Mr.R.Vivekanandan

For Respondents : Mr.S.Vinothkumar
For Public Prosecutor
[For R1]

R2 - Service awaited

ORDER

This petition has been filed to quash the proceedings C.C.No.380 of 2008 on the file of the Learned Judicial Magistrate No-VII, Coimbatore as against the petitioners/A3 to A5.



2. The prosecution has filed a final report as against 5 accused. A1 is the husband of the defacto complainant. The marriage between A1 and the defacto complainant was solemnised on 16.11.2007. At that time the defacto complainant was working in a bank in Pollachi. The allegation against the accused is that at the time of marriage, the accused demanded dowry of Rs.2 lakhs and 35 sovereigns jewels and the same was given. After marriage, the defacto complainant joined with her husband and they were living in Bangalore. On 03.04.2008, the husband of the defacto harassed her and demanded dowry and the defacto complainant informed the same to A3 to A7. They also told that the above amount has to be immediately given. On 07.04.2008, A3 to A5 came to the house of the defacto complainant and demanded Rs.5 lakhs of dowry.

3. It is the contention of the learned counsel appearing for the petitioner that accused 3 to 5 were never living with the defacto complainant and A1 and after marriage, the defacto complainant and A1 were living separately at Bangalore. Whereas, the mother-in-law, brother-in-law and sister-in-law are residing in Kerala. Except the allegation that A3 to A5 also supported the demand made by A1, there is no allegations unearthed by the prosecution in the entire investigation. Hence, submitted that, this is a fit case for this Court to exercise its power under section 482 Code of Criminal Procedure and quash the proceedings as against the petitioners.

4. The learned Public Prosecutor appearing for the first respondent submitted that the A1 demanded Rs.5 lakhs dowry from the defacto complainant and harassed her. It is his further submission that A2 to A5 also not prevented A1 from demanding dowry. However, when this Court posed a question whether A3 to A5 were residing along with A1 and the defacto complainant, the learned Public Prosecutor fairly submitted that A2 to A5 were residing in Kerala at the relevant point of time.

5. A perusal of the entire final report, the place of residence of A3 to A5 has not been properly set out in the final report. Be that as it may be.

6. The very allegations against the accused A3 to A5 is for the offences under sections 498 [A], 406 and 506[ii] of IPC read with Section 4 of Dowry Prohibition Act. From the materials unearthed on the side of the prosecution, there is no semblance of evidence available on record to substantiate the charge under section 406 of IPC as against A3 to A5. In respect of the offences under sections 498 [A] and 506 [ii], the allegation against the petitioners is that when the defacto complainant informed them that A1 has demanded dowry of Rs.5 lakhs, the petitioners also appears to have said that she should give Rs.5



lakhs as dowry and also threatened her. Except the above allegations, there is no materials, whatsoever, available on record. When A3 to A5 were not residing with A1 and the defacto complainant, the question of demanding Rs.5 lakhs by the petitioners, who were residing far away in Kerala is highly improbable. The possibility of implicating the family members cannot be ruled out in matrimonial matters. As the allegations against the petitioners are vague and bereft of details, forcing the parties to undergo the ordeal of trial will infact infringe their rights. Therefore, considering the vague allegations in the complaint and the materials collected by the prosecution, this court is inclined to quash the proceedings as against the petitioners/A3 to A5.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings against the petitioners/A3 to A5 in C.C.No.380 of 2008 on the file of the learned Judicial Magistrate No.VII, Coimbatore is quashed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nr/vrc

To

1. The Inspector of Police,
B-14, Kuniyamuthur Police Station,
Coimbatore - 641 002.
2. The Judicial Magistrate No.VII,
Coimbatore.

+1cc to Mr.R.Vivekanandan, Advocate, S.R.No.57408

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AD(CO)
PBS/03/12/2021