



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 15255 of 2017
and
CrI.M.P.Nos.9599 & 9600 of 2017

1.Ramasubramaniam

2.Malaiyammal

3.Manimeghalai

4.Seetharaman,

... Petitioners/Accused

Versus

1.The Inspector of Police,
W-6, All Women Police Station,
Aynavaram Circle, Kilpauk,
Chennai - 600 010

..1st Respondent/Complainant

2.Mrs.Kasthuri

...2nd Respondent/Defacto Complainant

PRAYER : This Criminal Original Petition was filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.46 of 2017 pending on the file of the Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai and quash the same.

For Petitioners : Mr.A.Selvendran
For Respondents : Mr.S.Vinoth Kumar
Govt. Advocate (CrI. Side)
for R1

: No appearance for R2

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed to quash the final report in C.C.No.46 of 2017 on the file of the Metropolitan Magistrate Additional Mahila Court, Egmore, Chennai.



2. The first petitioner is the husband of the second respondent. The second petitioner is the mother of first petitioner. The third petitioner is sister of the first petitioner. The fourth petitioner is his paternal uncle. In fact, all the family members have been charge sheeted for the offence under Section 498 A IPC offences. The case of the defacto complainant before the police is as follows:-

She married her husband on 18.05.1997. Her husband was working at Chennai in a private company. The petitioner and the defacto complainant are residing in a joint family. In the year 1998, a girl child viz., Padmavathi born to them. Thereafter, the defacto complainant has joined her husband in Chennai and residing at Ayanavaram. Her husband took her to Chennai on the condition that she should also go for work and she joined as a school teacher and gave her entire salary earned for 14 years to her husband. She only brought up her child. When the girl child was about to be admitted in some of the schools, A1 did not agree for the same and insisted that, in such a case, she should bring money for her family. When the same was questioned, she was driven out from the matrimonial home. Other accused have also supported A1. Therefore, the complaint has been lodged and First Information Report has been registered for the offence under Section 498(a), 406, 506(i) I.P.C. and in the same crime, statement was also recorded under Section 161 Cr.P.C.

3. It is the contention of the learned counsel appearing for petitioners that the similar accusation has been made in a separate complaint filed under Sec.18, 19 and 20 of Domestic Violence Act before the Judicial Magistrate, Ambattur in M.C.No.14 of 2013. But, the allegations raised by the wife has not been established on evidence. However, the learned Magistrate has ordered only maintenance. Therefore, his contention is that the entire prosecution is the result of matrimonial issue and there is no material to proceed against accused. Hence, continuing the prosecution is nothing, but clear abuse of process of law.

4. The learned Government Advocate (Criminal Side) appearing for 1st respondent has not disputed the factual aspects and submitted that the similar allegation was also made in the Domestic Violence complaint, which has not been proved before the Court of law. This court also pursued the order passed by the Judicial Magistrate in M.C.No.14 of 2013, wherein several reliefs have been sought for protection under Section 18, 19 and 20 of the Domestic Violence Act. The learned Magistrate after considering the evidence adduced by the defacto complainant rejected the protection under Section 18 and 19, however only granted maintenance for the 2nd respondent/defacto complainant. The said judgment makes it clear that similar allegation made in the F.I.R. and the statement before the police were pressed into



service in Domestic Violence complaint, the same has not been established on evidence by the defacto complainant. In such view of the matter, this Court is of the view that the continuance of the prosecution in a similar set of facts is nothing, but a futile exercise and clear abuse of process of law. Even assuming that the materials unearthed including in the F.I.R. and the statement of the defacto complainant, when perused. Except general allegations, no specific allegation as to the cruelty and demand of dowry has been made. From the above statements and complaint, it can be easily seen that the dispute mainly arose in respect of the changing the school of a girl child. Except that, there are no issues between the parties, which lead to filing of complaint. In such view of the matter, implicating entire family members under Section 498A and 406 I.P.C. and other penal offences is nothing, but a clear abuse of process of law. Therefore, the entire proceedings in C.C.No. 46 of 2017 on the file of Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp/psa

To

1.The Metropolitan Magistrate,
Additional Mahila Court, Egmore, Chennai

2.The Inspector of Police,
W-6, All Women Police Station,
Aynavaram Circle, Kilpauk,
Chennai - 600 010.

3. The Public Prosecutor,
High Court, Madras.

Crl. O.P. No. 15255 of 2017
and
Crl.M.P.No.9599 of 2017

MG(CO)
A.SK(01.12.2021)