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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 26587 of 2017
and
Crl.M.P.No.15278 and 15279 of 2017

1.D.SathishKumar
2.Mahalakshmi
3.Chitradevi . . . Petitioners/Petitioners

Versus

1.The Inspector of Police,
All Women Police Station,
Avadi,
Chennai.

2.Girija . . . Respondents/Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the C.C.No.192 of 2017, on the file of Judicial Magistrate Poonamallee-I, and quash the proceedings in so far as the petitioners are concerned.

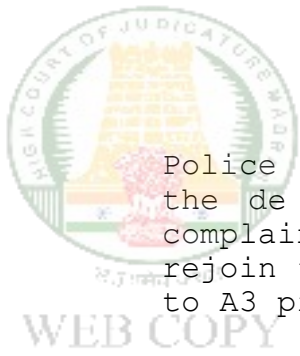
For Petitioners : Mr.S.Arivazhagan

For Respondents : Mr.R.Kishore Kumar
Government Advocate (Crl.Side) for R1

ORDER

This Criminal Original Petition has been filed to quash the final report filed under Sections 498(A), 323 and 506(i) IPC against the petitioners/A1 to A3 in C.C.No.192 of 2017 on the file of Judicial Magistrate, Poonamallee-I.

2.The case of the complainant is that the marriage between the de facto complainant and A1 was solemnized on 31.08.2014 and out of the marital tie, they have a female child. However, their marital life ran into rough weather, as a result of which, the couple got separated and the A1/husband of the de facto complainant, A2/mother-in-law of the de facto complainant and A3/sister-in-law of the de facto complainant ill-treated the de facto complainant. The de facto complainant approached the



Police and the Police conducted an enquiry, where A1/husband of the de facto complainant refused to rejoin with the de facto complainant. Despite the efforts of de facto complainant to rejoin with her husband on several occasions, the petitioners/A1 to A3 prevented her from doing so. Hence, the complaint.

3.The main contention of the learned counsel appearing for the petitioners is that A2 and A3 are falsely implicated in this matter. The entire allegations, if taken as such, would not constitute any offence as against A2 and A3. The entire materials collected by the prosecution clearly indicate that the entire issue is out of matrimonial dispute, when the husband refused to live with his wife. Thereafter, the petitioners have been implicated.

4.The learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that the prosecution has filed a final report in this case as against A1 to A3.

5.Heard the learned counsel on either side and perused the entire materials available on record.

6.Normally, this Court would not interfere with the final report when there are materials to proceed with trial, at the same time, when the allegations or materials collected by the prosecution do not constitute any offence or when the entire allegations are a result of matrimonial dispute and are pressed into service with motive, the same can be interfered. On a perusal of the final report and statements as such recorded by the prosecution, the main allegations appear to be with regard to the matrimonial discord between the husband and wife. The main allegation as against A2 and A3 is that they also supported the husband of the de facto complainant and they did not allow the complainant when she wanted to rejoin her husband on 01.05.2017. The entire materials collected by the prosecution itself clearly indicate that A3 is not residing in the house where A1 and de facto complainant were residing. Therefore, A3 causing alleged cruelty in the house where she is not living, is highly improbable. The very allegations clearly show that A2 and A3 have been implicated out of frustration in matrimonial life, where the husband refused to live with his wife. In such view of the matter, continuance of the prosecution as against A2 and A3 is nothing but abuse of process of law.

7.Therefore, the final report as against A2 and A3 alone is quashed and trial Court shall continue to proceed against A1. The trial Court shall dispose the matter as expeditiously as possible.



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8. Accordingly, this Criminal Original Petition is partly allowed. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

psa/mkn

To

1. The Judicial Magistrate-I,
Poonamallee.
2. The Chief Judicial Magistrate,
Thiruvallur.
3. The Inspector of Police,
All Women Police Station,
Avadi,
Chennai.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.62257

Cr1. O.P. No. 26587 of 2017

KSM(CO)
CT 13/12/2021