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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL.O.P.NO.32339 OF 2019

AND

CRL.M.P.NOS.17806 AND 17807 OF 2019

1. Mithun
2. Barath
3. Amika
4. Hema Priyadarshini ... Petitioners/Accused 1 to 4

/versus/

1. The State of Tamil Nadu,
Rep. by the Sub-Inspector of Police,
Gummudipoondi Police Station,
Thiruvallur Taluk and District. ... 1st Respondent/Complainant
2. Rajeshwari ... 2nd Respondent/Defacto
Complainant

PRAYER:-

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet filed in C.C.No.519 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Gummudipoondi in Crime No.214 of 2019 on the file of the Gummudipoondi Police Station and quash the same.

For Petitioners : Mr.R.Selvakumar

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R1

No appearance for R2



ORDER

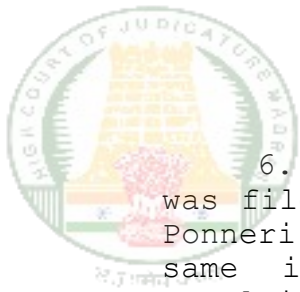
This Criminal Original Petition has been filed seeking to call for the records pertaining to the charge sheet filed in C.C.No.519 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Gummudipoondi in Crime No.214 of 2019 on the file of the Gummudipoondi Police Station and quash the same.

2. Brief facts of the case are that, the second petitioner is the husband of the second respondent/de-facto complainant. The first, third and fourth petitioners are in-laws of the de-facto complainant. A marriage was solemnized between the second petitioner and the de-facto complainant as per the Hindu Rites and Customs on 17.02.2016. Due to family dispute, the second petitioner filed H.M.O.P.No.169 of 2018 before the Sub Court, Ponneri against the de-facto complainant for divorce, due to which, the petitioners came to the de-facto complainant's house and threatened her with dire consequences to sign the divorce petition pending before the Sub Court, Ponneri in H.M.O.P.No.169 of 2018.

3. The learned counsel appearing for the petitioners submitted that the investigation was not properly conducted and the charge sheet has been filed against the petitioners only based on the complainant's statement, without recording any third party evidence and there is no independent witness. The trial Court, after taking cognizance of offence, has taken the case in C.C.No.519 of 2019 on file. But, on the face of the records, it reveals that, a case in H.M.O.P.No.169 of 2018 has been filed by the husband against the de-facto complainant/wife before the Sub Court, Ponneri, due to matrimonial dispute. After filing the original petition, she gave a complaint against the petitioners to harass the petitioners, who are the family members of the second petitioner/husband. Hence, this petition has been filed to quash the criminal proceedings against the petitioners.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that, based on the complaint, First Information Report was registered and investigation was conducted. After investigation, final report was filed before the District Munsif cum Judicial Magistrate Court, Gummudipoondi. Based on the final report, the trial Court, has taken cognizance of offences and case in C.C.No.519 of 2019 was taken on file. Therefore, there is no need to quash the criminal proceedings at this stage.

5. Even though notice was served on the second respondent, there is no representation on behalf of the second respondent.



6. Admittedly, a divorce petition in H.M.O.P.No.169 of 2018 was filed by the second petitioner/husband before the Sub Court, Ponneri against the de facto complainant for divorce and the same is pending. After filing the divorce petition, the complaint was lodged by the de facto complainant and a case was registered against the petitioners. After completion of investigation, the investigation agency has found some prima facie materials against the petitioners and filed the final report and the same was taken on file in C.C.No.519 of 2019. The allegations levelled against the petitioners is that the petitioners abused, assaulted and also threatened the de facto complainant with dire consequences to sign the divorce petition, which needs a detailed investigation. So the aggrieved parties have to work out their remedy only before the trial Court by making all the defence available with them.

7. Hence, I do not find any irregularity in filing the charge sheet. Therefore, this Criminal Original Petition is liable to be dismissed. Accordingly, this criminal original petition is dismissed.

8. However, it is made clear that, since the case is of the year 2019, the District Munsif cum Judicial Magistrate, Gummidipoondi, is directed to dispose of the case in C.C.No.519 of 2019 within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Ponneri.
2. The District Munsif cum Judicial Magistrate,
Gummudipoondi.
3. The Sub Inspector of Police,
Gummudipoondi Police Station,
Thiruvallur Taluk and District.



4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.69301

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AK-II (CO)
PBS/21/01/2022