

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 18.02.2021

PRONOUNCING ORDERS ON : 22.02.2021

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

CrI.O.P No.34735 of 2019

and

CrI.MP.Nos.19256 of 2019 and 1387 of 2020

1.G.Krishnaveni
2.G.Balachander
3.B.Seetha
4.V.Kanimozhi

...Petitioners/
Accused No.2 to 5

.Vs.

1.State rep.by
The Inspector of Police,
Villianur Police Station,
Puducherry.

...1st Respondent/Complainant

2.A.Renuga

... 2nd Respondent/De facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.471/2019, pending on the file of the learned Chief Judicial Magistrate of Puducherry and quash the same against the petitioners.

For Petitioners : Mrs.Inthu Karunakaran

For Respondents : Mr.V.Balamurugane
Additional Public Prosecutor
Puducherry
for R 1
Mr.N.Manokaran
for R 2

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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.471/2019, on the file of the Chief Judicial Magistrate, Puducherry.

2.The case of the prosecution is that the 2nd respondent got married to A-1 on 08.06.2017 and she was subjected to cruelty by the accused persons and there was a demand for dowry from the 2nd respondent. It is seen from the FIR that the same came to be registered on the directions issued by the police complaints authority against five accused persons for an offense under Sections 498-A, 377 IPC r/w 34 IPC and Section 4 of Dowry Prohibition Act. The petitioners were arrayed as A-2 to A-5. The 1st petitioner is the mother-in-law, the 2nd petitioner is the brother-in-law, the 3rd petitioner is the wife of the brother-in-law and the 4th petitioner is the sister-in-law.

3.The investigation was completed and a final report was filed before the Court below and the same was taken on file for an offense under Section 498A IPC r/w Section 34 IPC and Section 4 of Dowry Prohibition Act insofar as the petitioners are concerned.

4.The learned counsel for the petitioners submitted that there was no valid marriage between the 2nd respondent and A-1 and the marriage itself is null and void since it was conducted by concealing the first marriage of the 2nd respondent. A petition has been filed in HMOP No.64 of 2018, by A-1 before the Family Court, Villupuram to declare the marriage as null and void. The learned counsel further submitted that the 2nd respondent and A-1 hardly lived together and therefore there was absolutely no occasion for the petitioners to have indulged in any act of cruelty or make demand for the payment of dowry. The learned counsel further submitted that the FIR was registered on the directions issued by the police complaints authority and this Court has already held that the said authority does not have any power or jurisdiction to issue such directions. To substantiate the said submission, the learned counsel brought to the notice of this Court the order passed by this Court in WP.No.21587/2019, dt.30.07.2019.

5.The learned counsel for the petitioners further submitted that the 2nd respondent had given a very similar complaint even against her 1st husband and an FIR was registered in Crime No.14/2014, by the 1st respondent and ultimately the matter was settled between the parties and it was quashed by this Court. Therefore, the 2nd respondent is in the habit of giving such false complaints. The learned counsel further contended that the 2nd respondent also initiated Domestic Violence proceedings against her husband and the petitioners.

The proceedings against the petitioners came to be quashed by this Court in CrI.OP.No.22917 of 2018, by order dt.14.03.2019. Thereafter, the proceedings were continued against A-1 and it was dismissed by an order dt.21.09.2020. This order will have a bearing in the present case since the petition was filed by the 2nd respondent with the very same allegations.

6.The learned counsel appearing on behalf of the 2nd respondent submitted that the petitioners filed a discharge petition before the Court below and while the same was pending, the present quash petition has been filed before this Court and hence this petition is liable to be dismissed on that ground. The learned counsel further submitted that A-1 and the petitioners are closely related to the 2nd respondent and all of them were aware about the first marriage and they cannot be allowed to feign ignorance about the first marriage. The learned counsel also drew the attention of this Court to the allegations made in the complaint and also in the statement recorded under Section 161 of Cr.P.C., against the petitioners and submitted that the same makes out the prima facie case against the petitioners and there is no scope for interfering with the proceedings at this stage. The learned counsel submitted that as against the dismissal of the Domestic Violence case, an appeal has been filed by the 2nd respondent and the same is pending.

7.The learned Additional Public Prosecutor appearing on behalf of the 1st respondent submitted that there are prima facie materials against the petitioners and this Court will not go into the merits of the allegations made by the 2nd respondent at this stage and it involves appreciation of evidence. The learned counsel therefore sought for the dismissal of this petition.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.The main ground of challenge in the present petition is that a false complaint has been given by the 2nd respondent and all the family members have been unnecessarily roped in to face criminal proceedings. To establish the conduct of the 2nd respondent, the earlier complaint given by her against her first husband in Crime No.14/2014, was brought to the notice of this Court and it was contended that almost similar allegations have been made against the first husband alleging unnatural sexual conduct. It is also seen from records that there is a dispute between the 2nd respondent and A-1 with regard to the very validity of the marriage. HMOP No.64 of 2018, has been filed by

A-1 against the 2nd respondent to declare the marriage as null and void.

10. When this Court considers a petition under Section 482 of Cr.P.C., seeking to quash the criminal proceedings, this Court will have to only go by the allegations made in the final report and the materials available in support of the same. This court cannot conduct a roving enquiry to assess the truth or falsity of the allegations made against the accused persons.

11. Insofar as offences involving marriage are concerned where other family members have also been roped in as accused, this Court must bestow its attention to the materials available on record since the family members should not be made to face a false criminal complaint. This is more so since there is always a tendency in all these cases to rope in the family members by making some general and vague allegations.

12. The 2nd respondent had initiated a Domestic Violence case in DVC No.8/2018, by making the very same allegations. Two Protection Officers were examined in that case. They have spoken about an enquiry made by the concerned officer to ascertain if there was any dowry demand and the report had categorically stated that there was no such dowry demand. It is seen from their deposition that the 2nd respondent and A 1 hardly lived for 7 days and thereafter they had separated.

13. The learned Judicial Magistrate No.III, Puducherry on considering the entire materials available on record found that the 2nd respondent did not even stay with A-1 for a single day in the matrimonial home. The Court also found that there was no domestic violence committed against the 2nd respondent and there was also no dowry harassment against the 2nd respondent. These findings have a lot of significance since it is based on the appreciation of evidence recorded by the concerned Court.

14. The 2nd respondent has the proclivity to give complaints making serious allegations. It is quite hard for this Court to take it as a mere coincidence when the 2nd respondent is making the allegation of unnatural sex both against the first husband as well as A-1 in the present case. When both of them have hardly lived together, the allegations made by the 2nd respondent against the petitioners regarding dowry demand clearly looks inherently improbable. The 2nd

respondent has made an attempt to rope in all the family members in the criminal proceedings and in the considered view of this Court, the same is an abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

15. In view of the above discussion, the proceedings in C.C.No.471/2019, on the file of the Chief Judicial Magistrate, Puducherry, is hereby quashed insofar as the petitioners are concerned and this criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

KP
To

1. The Inspector of Police,
Villianur Police Station,
Puducherry.
2. The Chief Judicial Magistrate,
Puducherry.
3. The Public Prosecutor,
Puducherry.

+1 cc to M/s.N.Manokaran Advocate sr10559
+1 cc to M/s.Inthu Karunakaran Advocate sr10370

Cr1.OP No.34735 of 2019

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aa10/03/2021

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