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CRL.O.P.No.26576 and 26208 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.Nos. 26208 and 26576 of 2018
and Crl.M.P.No.15058 and 15307 of 2018

1.N.Mohan
2.Rathna
3.N.Kanakaraj
4.Premaa
5.N.Selvaraj
6.Vemala

...Petitioners in Crl.O.P.No.26208/2018

1.T.R.Sundaram
2.Renuga

...Petitioners in Crl.O.P.No.26576/2018
Versus

Aishwary Pathi

...Respondent in both petitions

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records relating to the Criminal case in C.C.No.3879 of 2017 and C.C.No.211 of 2018 on the file of the learned Judicial Magistrate, Mettupalayam quash the same by allowing this Criminal Original Petition.

For Petitioners in Crl.O.P.No.26208/2018 : Mr.A.Saravanan
For Petitioners in Crl.O.P.No.26576/2018 : Mr.M.Guruprasad



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For Respondent in both petitions : Mr.V.Ayyapparaj
for M/s.R.Bharathkumar

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COMMON ORDER

These petitions have been filed to call for the records in C.C.No.3879 of 2017 and C.C.No.211 of 2018, on the file of the learned Judicial Magistrate, Mettupalayam and quash the same. The petitioners in CC.No.3879 of 2017 are A.9 to A.14 and the petitioners in CC.No.211/2018 are A.7 and A.8.

2. The case of the prosecution is that it is alleged by the defacto complainant that she got married to A1 and she was subjected to cruelty and thereafter they got separated and the 1st accused filed H.M.O.P.No.99 of 2012 on the file of the Sub Court, Coimbatore for divorce against the complainant and the complainant also filed H.M.O.P.No.131 of 2014, on the file of the II Additional Sub Court, Coimbatore for restitution of conjugal rights. During the pendency of the said H.M.O.Ps, it is alleged that A1 has contracted a second marriage with one Vivitha (A4). Hence, the defacto complainant has filed a private complaint in C.C.No.3879 of 2017 and C.C.No.211 of 2018 before the Trial Court against her husband and 13



others, for quashing which, the present petitioners are before this Court.

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3. The learned counsel appearing for the petitioners submitted that originally A4 did not marry A1 and further that, she has not stated anything about the date and place of the 2nd marriage and failed to produce any documents that the marriage was conducted or assisted by the petitioners and therefore, a false complaint has been initiated. Further in the complaint no allegations have been made against the petitioners with regard to cheating, harassment, and criminal intimidation. Hence prays for quashment of the impugned private complaint against the petitioners herein.

4. The learned counsel appearing for the respondent submitted that the grounds raised by the counsel for the petitioners are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is submitted that the petitioners may be permitted to raise all the grounds before the Court and the same shall be considered on



its own merits and in accordance with law.

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5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. A perusal of the complaint reveals that the complainant, except mentioning the relationship of the petitioners in the complaint, did not mention anything about the cruelty or harassment caused by them to the complainant. The entire allegations are levelled only against the accused 1 to 3. There is no specific allegations against the petitioners herein to implicate them in the complaint. In such circumstances, this Court is of the considered view that there being no specific allegation against the petitioners and only with a view to cause mental agony to the petitioners, they have been roped into the present case. Therefore, this Court is of the considered view that no case is made against the petitioners and hence, this Court is inclined to quash the complaint against the petitioners.

7. Accordingly, these Criminal Original Petitions are allowed and



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the complaints in C.C.No.3879 of 2017 and C.C.No.211 of 2018 on the file of the learned Judicial Magistrate, Mettupalayam, are quashed insofar as the petitioners are concerned. Consequently connected miscellaneous petition is closed.

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M.DHANDAPANI,J.

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