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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.27365 of 2018

1.S.Balaji
2.S.Venkatraman
3.S.Malliga

...Petitioners/ Accused 1 to 3

Versus

1.Union Territory of Puducherry rep.by
The Inspector of Police,
Women Police Station,
Karaikkal.
(Cr.No.02/2018)

2.S.Saranya

...Respondents

(This petition is dismissed insofar as the 1st petitioner
is concerned as per order dated 26.11.2018
in Crl.O.P.No.27365/2018)

PRAYER: Criminal Original Petition filed under Section 482 of
the Code of Criminal Procedure, to call for records in
C.C.No.253 of 2018 pending on the file of the learned Judicial
Magistrate No.II, at Karaikal and quash the same.

For Petitioner	:	Mr.Prakash Adhapadam
For RR1	:	Mr.V.Balamurugan Public Prosecutor (Puducherry)
For RR2	:	no appearance

O R D E R

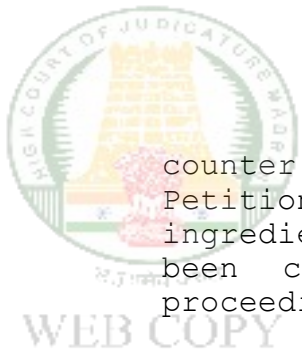
The petitioner has filed this petition seeking to call
for records in C.C.No.253 of 2018, pending on the file of the
learned Judicial Magistrate No.II, at Karaikal and quash the
same.

2. The facts of the present case is that the 2nd
respondent / defacto complainant is working as Women Police



Constable in the 1st respondent Police Station. The 1st petitioner herein is the husband of the 2nd respondent and petitioners 2 and 3 are brother-in-law and mother-in-law of the 2nd respondent. During the year 2015, when the 1st petitioner was working as Assistant in N.R.Unavagam, Madha Koil Street, Dr.Ambedkar Junction, Karaikal, the 2nd respondent and petitioner loved each other and register marriage between them was taken place on 23.02.2017 secretly without informing to their respective family members and they were residing in their respective parental house. They used to go outing and indulged in sexual gratification. Meanwhile, in the year 2016. the 1st petitioner got an appointment in Madhur Farmhouse as casual labourer and thereafter, the 2nd respondent revealed about such marriage to her parents. Thereafter, the 2nd respondent's parents went to the 1st petitioner' house at Mudhaliyarpur, Puduchery and approached 2 and 3 petitioners to ask about the secret marriage, for which, it is alleged that the petitioners 2 and 3 have abused them with filthy language. When the same was asked by the 2nd respondent with the 1st petitioner, he informed his unwillingness to live with the 2nd respondent and further negotiated for 50 sovereign of gold ornaments for accepting her to matrimonial home. Hence, on 26.02.2018, the 2nd respondent has given a police complaint to the 1st respondent police station against the 1st petitioner, who advised the petitioner and closed the FIR. Thereafter, it is alleged that the 1st petitioner has threatened the 2nd respondent with dire consequences and once again, the 2nd respondent has registered an FIR in Cr.No.02/2018 dated 09.03.2017, against the petitioner for the alleged offence under Sections 498-A, 294(b), 506(ii) r/w 34 IPC and the 1st respondent Police had filed the impugned final report. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that since the 2nd respondent is working as Women Police Constable in the 1st respondent Police Station, using her official position, she lodged false complaint against the petitioner with ulterior motive to wreck vengeance on him. Earlier, the petitioners moved Criminal Original Petition before this Court in Crl.O.P.No.11796 of 2018, seeking quashment of FIR and this Court vide order dated 20.04.2018, closed the said petition to direct the parties to approach the local Taluk Legal Services Authority for amicable settlement. However no settlement was arrived between the parties and in the meantime, the 1st petitioner was forced to knock the door of the Family Court at Puducherry, seeking dissolving of the marriage and the said Court had ordered notice to them. Immediately, on receipt of such notice, all of a sudden, without following direction of this Court in Crl.O.P.No.11796/2018 and the respondent Police, without conducting proper and fair investigation, has filed the final report before the Trial Court in haste and fast manner as



counter blast for filing the aforesaid Matrimonial Original Petition and further the impugned charge sheet did not disclose ingredients of any of the offences, which allegedly said to have been committed by the petitioners. Therefore, the entire proceedings is liable to be quashed.

4. The learned counsel Government Advocate (crl.side) appearing for the 1st respondent submitted that the issue involved in the present round of litigation is a triable issue and 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 left open to the petitioners to raise all the grounds before the Court and the same shall be considered on its own merits and in accordance with law.

5. This Court has considered the rival submissions and also perused the materials available on record. Though the 2nd respondent name is printed in the cause list, there is no appearance on behalf of him and therefore, this Court informed the learned counsel for the petitioner to make a phone call to him during the court proceedings. After continuous call, the learned counsel for the petitioner attended the call and expressed his unwillingness to proceed further with the case.

6. The facts in the present case is not in dispute. This Court has perused the complaint as well as the Charge Sheet and the 161 statement of the defacto complainant. It reveals that admittedly the petitioners 2 and 3 are brother-in-law and mother-in-law of the defacto complainant and the 1st petitioner and the defacto complainant were married each other without informing their respective families. It is alleged that the defacto complainant went to the house of the petitioners for questioning the attitude of the 1st accused for not taking care of the defacto complainant and further it is alleged that the petitioners 2 and 3 threatened and abused them in filthy language, Except this vague allegations without mentioning the specific word uttered by the accused, no other specific allegation was made. Though the allegation of demand of dowry was made, it was not established by examining any independent witnesses and therefore, it cannot be given credibility. It appears that since the defacto complainant is working as Women Police Constable in the 1st respondent Police Station, in order to wreck vengeance against the petitioners 2 and 3, the 1st respondent police has falsely implicated the petitioners in the above said offences. Therefore, this Court is inclined to quash the FIR against the petitioners 2 and 3.



7. For the reasons aforesaid, this Criminal Original Petition is allowed and C.C.No.253 of 2018, on the file of the learned Judicial Magistrate II, Karaikal, is quashed in respect of petitioners 2 and 3. However, this Court is not inclined to quash the same in respect of the 1st petitioner / A1. Hence, this petition, in respect of A1 is dismissed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Karaikal.

2.The Inspector of Police,
Union Territory of Puducherry
Women Police Station,
Karaikkal.

3.The Public Prosecutor,
Madras High Court.

+1cc to Mr.E.Anbarasan, Advocate SR. No.51646 (10/01/2022)

CRL.O.P.No.27365 of 2018

SJ (CO)

PR (07/12/2021)