



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.2152 of 2021

and

Crl.M.P(MD)Nos.1046 & 1048 of 2021

WEB COPY

- 1.Vathana
- 2.James
- 3.Uma
- 4.John Vinoth
- 5.Renso

... Petitioners

Vs.

- 1.The State rep. by  
The Inspector of Police  
All Women Police Station,  
Marthandam,  
Kanyakumari District.

- 2.Viniba

... Respondents

**Prayer :** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.481 of 2019 pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai, and quash the same as against the petitioners.

For Petitioners : Mrs.A.Banumathy

For 1st Respondent : Mr.A.Robinson,  
Government Advocate (Criminal Side)

### ORDER

The present petition is filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings in C.C.No.481 of 2019, on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

2.The case of the prosecution in nutshell is as follows :-

The defacto complainant / second respondent got married to A1 namely, Subirsabhu on 22.10.2018 and the present petitioners/accused 3 to 7 along with A1 demanded a sum of Rs.2,00,000/- as dowry from the defacto complainant. The parents of the defacto complainant on coming to know of all these facts, gave a sum of Rs.1,00,000/- to A1 on 19.12.2018 and thereafter, A1 had gone abroad. Subsequently, the accused 2 to 6 abused the defacto complainant in filthy language and also threatened her



with dire consequences, since the defacto complainant's parents did not give Rs.2,00,000/- as dowry as demanded by them.

3. According to the prosecution, since the accused 1 to 7 also detained all the streedhana articles of the defacto complainant, they were charged for the offences punishable under Section 406 of the Indian Penal Code apart from 498A of the Indian Penal Code and Sections 3(1), 4 and 6 of the Dowry Prohibition Act, 1961.

4. Now, the petitioners/ accused 3 to 7 have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973, to quash the entire proceedings in C.C.No.481 of 2019, on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

5. Mrs.A.Banumathy, learned counsel for the petitioners raised the following grounds.

- 1) The defacto complainant lived with her husband in the matrimonial home only for 72 days and a complaint was lodged by her after a delay of seven months i.e., on 16.08.2019.
- 2) The offences under Sections 498A and 406 of the Indian Penal Code are not attracted to the facts of the present case.
- 3) All the allegations levelled against the present accused are false.
- 4) No independent witness has been examined by the police to substantiate their contentions.
- 5) All the witnesses produced by the prosecution are close relatives of the defacto complainant and therefore cannot be considered.

6. Mr.A.Robinson, learned Government Advocate (Criminal side), who accepts notice on behalf of the first respondent, contended that based on the complaint given by the defacto complainant, the police registered First Information Report in Crime No.39 of 2019 of All Women Police Station, Marthandam and after investigation, final report was filed before the Judicial Magistrate No.I, Kuzhithurai in C.C.No.481 of 2019. His further contention is that the investigation has been done properly by the first respondent police and that there is no valid ground to quash the entire proceedings in C.C.No.481 of 2019.

7. It is settled law that the entire proceedings in Criminal proceedings cannot be quashed on the ground of delay and latches on the part of the defacto complainant. In the instant case, the defacto complainant got married to the first accused on 22.10.2018 and within a year (i.e. on 16.08.2019) she lodged a



complaint against her husband and her in-laws for the offences punishable under Sections 498A and 406 of the Indian Penal Code and Sections 3(1), 4 and 6 of the Dowry Prohibition Act, 1961. In the meanwhile, she had also given birth to a male child. Normally, in a case under Section 498A of the Indian Penal Code, it is too much to expect a woman to give a complaint of cruelty and dowry harassment immediately, because any woman would try to save her marital life and therefore, mere delay in lodging the complaint cannot be a ground to quash the entire proceedings in C.C.No.481 of 2019.

8. A Perusal of the statement of all the witnesses recorded by All Women Police Station, Marthandam, prima facie, shows that the accused 1 to 7 have committed the offence punishable under Sections 498A and 406 of the Indian Penal Code and Sections 3(1), 4 and 6 of the Dowry Prohibition Act, 1961. The other grounds raised by the petitioners can be gone into only after the conclusion of the trial, based on the evidence adduced by the witnesses.

9.The contention of Mrs.S.Banumathy, learned counsel for the petitioners that all the witnesses are blood relatives of the defacto complainant and therefore, the proceedings in C.C.No.481 of 2019 should be quashed, cannot be accepted for the simple reason that merely because, the witnesses are close relatives of the defacto complainant, the proceedings cannot be quashed. It is for the Judicial Magistrate to appreciate the evidence adduced before him.

10.In the facts and circumstances, I do not find any reason to quash the proceedings in C.C.No.481 of 2019 on the file of the Judicial Magistrate Court No.I, Kuzhithurai. Accordingly, the present Criminal Original Petition is dismissed. While, the personal appearance of the petitioners are also dispensed with, the petitioners are directed to appear before the concerned Judicial Magistrate, whenever their presence is required. Accordingly, Crl.M.P(MD) No.1048 of 2021 is ordered. Consequently, Crl.M.P(MD) No.1046 of 2021 is closed.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)



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Note In view of the present lock down  
owing to COVID-19 pandemic, a web  
copy of the order may be utilized for  
official purposes, but, ensuring that  
the copy of the order that is  
presented is the correct copy, shall  
be the responsibility of the  
advocate/litigant concerned.

To

- 1.The Judicial Magistrate No.I,  
Kuzhithurai.
- 2.The Inspector of Police  
All Women Police Station,  
Marthandam,  
Kanyakumari District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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