



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on : 14.07.2021

Pronounced on : 10.08.2021

WEB COPY

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.3371 of 2021

and

Crl.M.P.(MD)Nos.1844 and 1845 of 2021

Subbulakshmi

... Petitioner

Vs.

1.The Inspector of Police,  
All Women Police Station,  
AWPS Dindigul,  
Dindigul District.  
(Crime No.33 of 2016)

2.Kanmani

... Respondents

**Prayer :** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.226 of 2019 on the file of the learned Additional Mahila Court, Dindigul District in Crime No.33 of 2016 dated 18.11.2016 on the file of the respondent No.1 and quash the same as illegal as against the petitioner alone.

For Petitioner : Mr.T.Lajapathi Roy

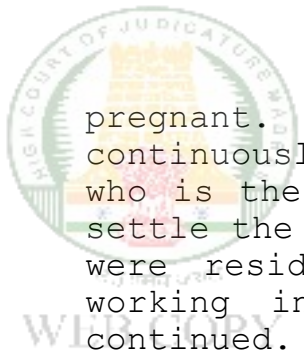
For R1 : Mr.R.M.Anbunithi,  
Addl. Public Prosecutor (Crl. Side)

For R2 : Mr.T.Sulthan Basha

**ORDER**

This petition is filed to quash the proceedings in C.C.No.226 of 2019 on the file of the learned Additional Mahila Court, Dindigul District.

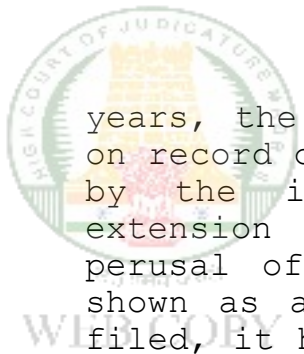
2.The case of the prosecution is that the marriage between the first accused and the defacto complainant was performed on 14.11.2005 in the presence of the family elders. At that time the first accused was unemployed and the defacto complainant's family presented 10 sovereign of gold jewels and after the marriage they had two children. Some difference of opinion arose between them. So the first accused deserted defacto complainant, when she was



pregnant. He returned back to the family after two years. He was continuously harassing the defacto complainant. The second accused who is the petitioner herein was asked to mediate between them and settle the dispute. In view of the settlement, the husband and wife were residing in a separate house. The defacto complainant was working in a beauty parlour. But even then, the harassment continued. The first accused was habitually engaged in playing cards. So he was frequently ran away from the house and used to come back. When they were living in Dindigul in a separate residence, the first accused snatched away the thali chain of the defacto complainant. When it was informed to the second accused/petitioner herein, this petitioner alleged to have driven away the defacto complainant and the children. Later, the defacto complainant was residing in Dindigul individually and during that time, the first accused used to come to home during midnight. So the defacto complainant asked the first accused to come to Bathalagundu to his parental home but the first accused was not willing and sent defamatory messages to her and thereby, ill-treated her. On the basis of the complaint given by the second respondent/defacto complainant, a case in Crime No.33 of 2016, dated 18.11.2016 was registered and investigation was undertaken and final report was filed after completion of the investigation before the concerned Court and it was taken on file in C.C.No.226 of 2019 by the learned Additional Mahila Court, Dindigul District. Seeking quashment of the final report, the second accused has come forward with this Criminal Original Petition mainly on the ground that the cognizance of the offence taken by the learned Additional Mahila Court, Dindigul is barred by limitation under Section 468 of Cr.P.C.

3.The learned counsel for the petitioner would straightaway rely on the judgment of the Hon'ble Supreme Court in ***Sarah Mathew Vs. Institute of Cardio Vascular Diseases*** reported in **(2014) 2 SCC 62**. Wherein, the Hon'ble Supreme Court by considering the earlier judgment on this point has come to the conclusion that the date of presentation of the final report is the relevant date for considering whether the case is barred by limitation under Section 468 of Cr.P.C.

4.On this point, the learned counsel for the petitioner would invite the attention of this Court to the dates which have been put and seal made by the learned Judicial Magistrate No.II, Dindigul. The dates and seal of the learned Judicial Magistrate show that it was originally presented on 03.12.2019 and later it was represented on 05.12.2019. So the original date of presentation can be taken as 03.12.2019. Perusal of records shows that the final report was prepared as early as on 30.03.2017 but it has been presented well after the period of limitation before the concerned Court. The offences are alleged under Section 498(A) of I.P.C. and Section 4 Tamil Nadu Prohibition of Harassment of Women Act, 2002. The maximum punishment for both the offences prescribed is three years. As per Section 468 of Cr.P.C., for the offence punishable upto three



years, the limitation period is three years. There is no evidence on record or material to the effect that any petition has been filed by the investigation officer before concerned Court seeking extension of time for filing the final report. However, on a perusal of the final report shows that this petitioner has been shown as absconding accused. When the original final report was filed, it has been noted that this petitioner was released on bail. But this has been objected by the office of the concerned Judicial Magistrate No.II, Dindigul, stating that no such bail order has been in favour of this petitioner and later she has been shown as absconding accused. In such circumstances, the contention on the part of the petitioner that the cognizance is barred by limitation cannot be accepted. Section 470(4) of Cr.P.C., runs like this:-

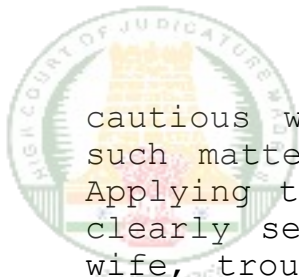
*"In computing the period of limitation, the time during which the offender -*

*(a) has been absent from India or from any territory outside India which is under the administration of the Central Government, or*

*(b) has avoided arrest by absconding or concealing himself shall be excluded."*

5. There is no explanation on the part of the petitioner to the effect that she was very well available for investigation by the police during the relevant time. So she ought not to have been shown as absconding accused. But whatever it may be, the contention on the part of the petitioner that cognizance is barred by limitation cannot be accepted on this sole ground.

6. Now coming to the merits of the case, the allegation made against this petitioner is that she pushed the defacto complainant and child. When the conduct of this petitioner/second accused has brought to the notice. Except this bald allegation, no other allegation has been made against this petitioner either attracting the offence under Section 498(A) of I.P.C., or Section 4 Tamil Nadu Prohibition of Harassment of Women Act, 2002. The statement of the defacto complainant shows that there was continuous trouble between the her and her husband. The conduct of the first accused/husband is that he was addicted to playing cards and because of that, he was frequently disappearing from the home and he was having the habit of pledging the jewels for playing cards. When this specific fact has been brought to the notice of this petitioner, this petitioner pushed her out of the house and so, she came to Dindigul, where they were residing previously. As I mentioned earlier, except this specific bald allegation, no other averment has been made with regard to her involvement in the dispute between the first accused and the defacto complainant. The tendency of the wife to implicate and involve the in-laws into dispute has been well taken note of by the Hon'ble Supreme Court in ***Preeti Gupta and Another Vs. State of Jharkhand and Another in Criminal Appeal No.1512 of 2010, dated 13.10.2010*** and it is pointed out that the Court must be very



cautious while approaching factual matters and concluded that in such matters, discharging the in-laws must be taken into proper. Applying the aforesaid principle to the facts of this case, it is clearly seen that only after the dispute between the husband and wife, trouble arose between them, in which, the petitioner has no way involved. Mere bald allegation will not attract the offence under Section 498(A) of I.P.C., and Section 4 Tamil Nadu Prohibition of Harassment of Women Act, 2002.

7.This is of the considered view that the continuation of the proceedings will amount to abuse of process of law. On this ground, this petition is liable to be allowed and the first accused/husband is directed to face trial.

8.In the result, the Criminal Original Petition is allowed and the proceedings in C.C.No.226 of 2019 on the file of the learned Additional Mahila Court, Dindigul District is quashed insofar this petitioner is concerned and trial shall continue as regards the first accused to its logical conclusion. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

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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 Additional Mahila Court,Dindigul District.

2.The Inspector of Police,  
All Women Police Station,  
AWPS Dindigul,Dindigul District.

3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,Madurai.

+1 CC to MR.T.LAJAPATHI ROY,Advocate( SR-26260[F] dated 13/08/2021 )

**Crl.O.P. (MD)No.3371 of 2021**

**10.08.2021**

MGJ (24/08/2021) 4P 5C