



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.4306 of 2020

1.Vetriselvan
2.Niraipandi
3.Duraipandi
4.Vijayaprabhakaran
5.Tamilselvi

... Petitioners

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.
(In Crime No.16 of 2019)

2.Muneeswari

... Respondents

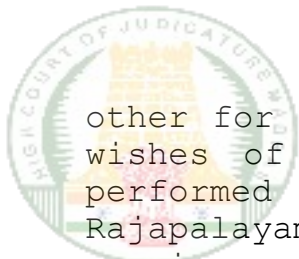
Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in the case in C.C.No.1007 of 2019 on the file of the Judicial Magistrate Court No.II, Srivilliputtur, Virudhunagar District and quash the same as against the petitioners/accused No. 2 as illegal, violation of law.

For Petitioners	: Mr.Jothi Basu
For R1	: Mr.R.M.Anbunithi, Addl. Public Prosecutor (Crl. Side)
For R2	: Mr.Solaisamy

ORDER

This petition is filed to quash the proceedings in C.C.No.1007 of 2019 on the file of the Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District.

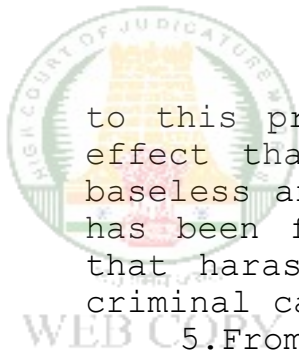
2.The case of the prosecution is that the defacto complainant was working as Associate Professor in Rajapalayam. The first accused was working as Fireman in Tamil Nadu Fire Service Department. The first accused and the defacto complainant were in love with each



other for about 10 years and living as husband and wife against the wishes of Accused Nos.2 to 5. The marriage between them was performed on 17.12.2018 at Vinayagar Temple, Mangapuram near Rajapalayam in the presence of the family members. After the marriage only for two days, they were living in the matrimonial house. On 17.12.2018, at about 08.30 pm., the fourth accused namely., Vijayaprabhakaran abused the defacto complainant in filthy manner and attempted to assault her. The fifth accused also abused her and asked the third accused namely., Duraipandi to chase her from the house and kill her. The first accused at the instigation of the fifth accused criminally intimidated her. After that the first accused ill-treated her by demanding money and jewels. The second accused instigated her husband/first accused to kill her. Later she requested the first accused to shift the residence to Chennai and set up a separate residence. So the first accused under false promise received three sovereigns of gold jewels stating that he will arrange separate residence but later failed to do so. On the basis of the complaint given by the defacto complainant a case in Crime No.16 of 2019 has been registered on the file of the first respondent and investigation was undertaken and after the completing the investigation, the final report was filed before the learned Judicial Magistrate No.II, Srivilliputhur and it was taken on file as C.C.No.1007 of 2019. Seeking quashment of the same, this Criminal Original Petition has been filed.

3.Heard both sides.

4.The marriage between the first petitioner and the second respondent herein is disputed by the first petitioner stating that no marriage took place between them. However, there is a specific averment to the effect that the marriage between them was performed in Vinayagar Temple at Mangapuram Village near Rajapalayam on 17.12.2018. Whether the marriage is valid or not is a matter for consideration in H.M.O.P.No.7 of 2019 filed before the learned Sub Court, Srivilliputtur. That petition has been filed seeking declaration that the marriage between first petitioner and the second respondent herein is null and void. The averment is to the effect no marriage took place between them and they never lived as husband and wife and they were not lovers. Later the second respondent has filed D.V.O.P.No.3 of 2016 before the learned Judicial Magistrate, Rajapalayam, which is also stated to be pending. CrI.O.P.(MD)No.9570 of 2019 was filed by the petitioners seeking quashment of the same. This Court by order dated 17.09.2019 allowed the petition as regards the petitioners 2 to 5 and dismissed insofar as the first petitioner is concerned and a direction was also issued to the concerned Court to complete the proceedings within a period of six months from the date of receipt of a copy of that order. The main ground on which the petition was allowed is that the claim in D.V.O.P.No.3 of 2016 is with regard the residence, right and compensation. So that can be worked against the first respondent and the other petitioners are not all necessary parties



to this proceeding. A specific observation has been made to the effect that the harassment allegation against the petitioners is baseless and found to be false. Only on this ground, this petition has been filed stating that already an observation to the effect that harassment by the petitioners is found to be false and the criminal case must also be quashed.

5.From the facts and circumstances of the case as narrated above shows that the validity of the marriage between the first petitioner and second respondent herein is in dispute. That has to be resolved only in the H.M.O.P proceedings. Insofar as the petitioners 2 to 5 are concerned, only bald allegations have been made against them in the complaint and there is a specific averment to the effect that after the alleged marriage, they were residing in the matrimonial house only for two days and thereafter, they shifted their residence. It is highly improbable that within a period of two days of marriage, this petitioner joined hands with the other accused and harassed her demanding dowry. Mere bald allegation will not attract the offence under Sections 498(A) and 506(i) of I.P.C., and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002. More over it is not the case of the complainant that in the matrimonial house except the husband and wife, the petitioners 2 to 5 were also residing or living in the same house. The facts and circumstances of the case clearly shows that the in-laws have been roped into the dispute. At this juncture, the judgment of 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 on perusal of the complaint, it is seen that to wreck vengeance, the petitioners 2 to 5 have been implicated. No material has been collected during the course of the investigation to connect the petitioners 2 to 5 into the dispute of the husband and wife. Since there is already an observation by this Court to the effect that allegation of harassment against the second respondent by the petitioners 2 to 5 are baseless, the same has to be followed in this case also due to the absence of new material brought on record during the course of investigation.

6.In the result, this Criminal Original Petition is allowed insofar as the petitioners 2 to 5 are concerned and the proceedings in C.C.No.1007 of 2019 on the file of the Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District is quashed and this petition is dismissed as regards the first petitioner and the trial shall continue as regards the first petitioner to its logical conclusion.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)



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.II,
Srivilliputtur,
Virudhunagar District.
- 2.The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.JOTHI BASU(G.M. LAW OFFICE), Advocate (SR-25868[F]
dated 11/08/2021)

Crl.O.P. (MD)No.4306 of 2020
10.08.2021

MGJ(19.08.2021) 4P 5C