



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**
CrI.O.P. (MD)No.5089 of 2021

WEB COPY

1. Mohan
 2. Sakthi
 3. Abirami
 4. Bhuvaneshwari
- ... Petitioners/Accused No.2 to 5

Vs.

1. The State Rep. By
The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai District.
(Crime No.35 of 2020)
 2. Harsini
- ... Respondent-1/Complainant
- ... Respondents/Defacto complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.35 of 2020 dated 28/12/2020, pending Investigation on the file of the first respondent Police and quash the same against this petitioners.

For Petitioners : Mr.S.A.Ajmalkhan
For Respondent : Mr.R.Srinivasan
Government Advocate(crl.side)
For R1

O R D E R

This petition has been filed to call for the records in Crime No.35 of 2020 dated 28.12.2020 pending investigation on the file of the first respondent Police and quash the same against these petitioners.

2. The case of the petitioners is that the first petitioner's son and the defacto complainant lived in Dubai after their marriage. On the request of the defacto complainant, the second petitioner went to Dubai and took her from Dubai to India. After coming to India the defacto complainant conceived on 19.05.2018 and a girl baby namely Hanisha was born. After delivery the defacto complainant never returned to the Matrimonial home. Even after the advise of the petitioners 1 & 2 the defacto complainant refused to come back. The third petitioner and fourth petitioner are living in separate places with their own families. There was no connection with the defacto complainant either with the first petitioner or with the second petitioner. In order to harass the petitioners' entire family members, the defacto complainant foisted this false criminal complaint against them. Due to her false complaint, the respondent police called the petitioners to the station daily. The first



respondent failed to conduct proper enquiry as contemplated by Law and straight away registered the Criminal Case. The defacto complainant already filed a divorce petition against her husband (first petitioner's son) before the Family Court, Madurai in H.M.O.P.No.1117 of 2019 and same is pending. In the above said divorce petition, the defacto complainant did not mention the allegation which was stated in the present criminal complaint in Cr.No.35 of 2020. It elucidated that the criminal complaint is only an afterthought process of the defacto complainant in order to harass the entire family members. In fact the criminal complaint suffers on the ground of the jurisdiction. The defact complainant alleged that the occurrences took place on Dubai and Dindigul as per her version. So the Criminal Complaint registered before the respondent police is not maintainable. The defacto complainant in order to harass the petitioners filed a petition in Cr.M.P.No.6338 of 2019 before the Mahila Court, Madurai. The petitioners never committed any offence as alleged in the impugned complaint. This Court ought to have considered that no offences are made out against the petitioners in the impugned F.I.R. There is no specific overt act as against the petitioners in the impugned complaint. It is liable to be quashed. The third petitioner completed the Degree of Bachelor of Engineering and the fourth petitioner completed B.Sc., Chemistry degree. The first petitioner is the father-in-law of the defacto complainant and he is aged about 65 years. The second petitioner is the mother-in-law of the defacto complainant. The first respondent failed to conduct proper enquiry before filing the impugned F.I.R. Our Apex Court repeatedly held that in the matrimonial disputes the respondent Police ought to receive report from the Welfare Department and conduct proper enquiry regarding the genuineness of the Criminal Complaint. The F.I.R in Cr.No.35 of 2020, is without any legal point, does not attract penal sections and is liable to set aside and quashed.

3.Since it is a matrimonial dispute, the matter was referred to the Tamil Nadu Mediation and Conciliation Centre attached to this Bench and the parties appeared before the Mediation Centre and a settlement was also reached. The terms of settlement are also mentioned in the Mediation report, which are as follows:

" (I) As per the agreement these Petitioners herein paid a sum of Rs.8,00,000/- (Rupees Eight Lakhs Only) through demand draft for Rs.2,00,000/- drawn on Tamilnadu Mercantile Bank, Dindigul Branch, D.D.No.330436 dated 15.03.2021, Rs.2,00,000/- drawn on ICICI Bank, Dinidigul Branch D.D.No.504361, dated 15.03.2021, Rs.2,00,000/- drawn on ICICI Bank, Dindigul Branch D.D.No.405371 dated 17.03.2021 as full and final settlement.

(ii) The Marriage between the first Petitioner's son Balaji and the respondent O.K.Harshini may be dissolved by a decree of divorce in the H.M.O.P.No.1117 of 2019 filed before the Hon'ble Family Court, Madurai. The parties are agree to co-operate before the Hon'ble Family Court for getting the divorce decree in H.M.O.P.No.1117 of 2019.

(iii) The D.V.O.P. Case filed by the respondent O.K.Harshini in Cr.M.P.No.6338 of 2019 before the



WEB COPY

Hon'ble Additional Mahila Court, (JM Level) Madurai may be withdrawn/dismissed as regards the respondents by filing a copy of compromise and joint memo within a week from today and bring to the Courts notice the changed circumstances and factum of this Compromise.

D. The respondent O.K.Harshini hereby undertakes to withdraw the complaint filed by her as against the petitioners and her husband Balaji in Cr.No.35 of 2020 on the file of All Women Police Station, Thirupparankundram, Madurai within a week from today. The respondent O.K.Harshini undertakes to give No Objection for allowing the quash petition in CrI.O.P (MD).No.7943 of 2021 filed by the petitioner for quashing the above said Crime Number in Cr.No.35 of 2020 and further if the respondent's husband Balaji filed any quash petition regarding the above said Cr.No.35 of 2020, the respondent O.K.Harshini undertake not to object the petitions if any in future.

e) The respondent O.K.Harshini received the Sreetthana properties from the petitioner's side and both the parties exchanged their Sritthana Articles, to that effect both of them executed the deed separately.

f) Since the first and second petitioner's son is working at abroad, the Respondent undertakes to not to claim any amount from him in future and she will not file any Criminal, Civil Cases against the petitioner's side. The petitioner also undertakes not to initiate any cases against the respondent in future.

7. By signing the Agreement the Parties hereto state that they have no further claims or demands against each other with respect to CrI.O.P(MD). No.2824 of 2021 in Cr.No.35 of 2020 on the file of the All Women Police Station, Thirupparankundram, Madurai and all disputes and differences in this regard have been amicably settled by the Parties hereto through the process of conciliation/mediation."

4.From the mediation report, it is seen that the parties entered into the terms arrived in the report and the petitioners herein have paid Eight Lakhs rupees by way of demand draft and the parties have also agreed to mutually dissolve the marriage by giving no objection in HMOP.No.1117 of 2019.

5.The second respondent herein has no objection to quash the case against the petitioners in the Criminal Original Petition.

6.The Hon'ble Supreme Court in the Judgment reported in **Criminal Appeal No.349 of 2019** in the case of **State of Madhya Pradesh vs. Laxmi Narayan and others**, has held as follows:

<https://hccourt.mca.gov.in/court/cases>



" i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship of family disputes and when the parties have resolved the entire dispute amongst themselves"

7. In the case on hand, since it is a matrimonial dispute and since the parties have also reached the settlement, nothing survives in this case for trial.

8. In view of the settlement reached between the parties, the case in Crime No.35 of 2020 on the file of the first respondent Police, is quashed and the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

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 Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai District.

2. Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD) No.5089 of 2021
21.04.2021

RS (05.08.2021) 4P 3C