



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.4339 of 2021

and

Crl.MP(MD)Nos.2443 & 2444 of 2021

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1.Chandrasekar

2.Karuppayee

3.Veeramalai

4.Rajkumar

... Petitioners/Accused Nos.1 to 4

Vs.

1.State rep by,

The Inspector of Police,
All Women Police Station,
Vadamadurai,
Dindigul District.
(Crime No.13 of 2012)

... Respondent/Complainant

2.Dhivya

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in C.C.No.26 of 2013 on the file of the learned District Munsif Cum Judicial Magistrate, Vedasanthur and quash the same.

For Petitioners	:	Mr.M.Ramu
For R1	:	Mr.K.Sanjai Gandhi
		Government Advocate (Crl.Side)
For R2	:	Mr.S.Rooban

ORDER

This Criminal Original Petition is filed to quash the C.C.No.26 of 2013 on the file of the learned District Munsif Cum Judicial Magistrate, Vedasanthur.

2.The case of the prosecution in brief:-

The marriage between the defacto complainant and the first petitioner performed on 02.02,2009. At the time of marriage, as per the customary practice, usual gold jewels and cash was given. After marriage, the second respondent lived with the first petitioner and his family members for three months as joint family. During that



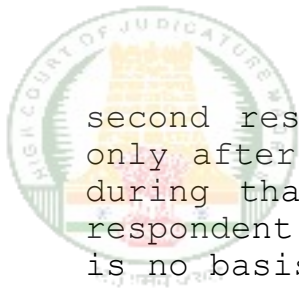
time, the petitioners forced the second respondent to bring 10 sovereigns of gold jewels and Rs.5 lakhs as further dowry. Later, the second respondent went to South Korea, where the petitioner was doing research work and lived there for 1 ½ years. Due to the torture of the first petitioner, the second respondent returned to India and went to her parental home. Thereafter, after 1 year, the petitioner returned to India and demanded the second respondent to continue their family life. But, he was scolded by the second respondent and she preferred a complaint before the first respondent and a case was registered in Crime No.13 of 2010 for the offence punishable under Sections 498 A, 406, 294(b) and 506 (i) IPC. After completing the investigation, final report was filed before the learned Additional District Munsif Cum Judicial Magistrate, Vedsanthur, and the same was taken on file in C.C.No.26 of 2013.

3. Seeking quashment of the above said criminal proceedings, this petition is filed mainly on the ground that H.M.O.P.No.1 of 2013 was filed by the first petitioner seeking divorce before the Sub Court, Vedsanthur and that was allowed and after that, the first petitioner and the second respondent performed another marriage and now, they are living with their new family and children.

4. Heard both sides.

5. Marriage between the first petitioner and the second respondent herein, was performed, on 02.02.2009. It is not disputed. After that, they lived for some time happily. Thereafter, difference of opinion arose between them. As a result of which, the petitioner filed H.M.O.P.No.1 of 2013, before the Sub Court, Vedsanthur. After going through the oral evidence of the parties, the Trial Court came to the conclusion that there was no basis for the second respondent to give a criminal complaint, against the petitioners. For that purpose, the Trial Court has taken into account the oral evidence of the parties.

6. From the discussion made in the above said matter, it is seen that it is also observed that the first petitioner and the second respondent lived husband and wife in South Korea for about 1 ½ years and even though, the second respondent stated that she was harassed, no complaint was made during that period. But, it is the complaint of the first petitioner to the effect that the second respondent did not co-operate with him for conjugal right. After returning from South Korea, the second respondent went to her parental home and stayed there one year. Even though, during that time, no complaint was given by her. After 1 year, when the petitioner returned to India, the second respondent took away 60 sovereigns of gold jewels, which belongs to her. After that, they were living there 10 days. So, according to the petitioner, during that time only, harassment is made. This sequence of events have been taken into account, by the Trial Court. The conduct of the



second respondent clearly shows that the complaint has been given only after living happily for some time. The question of harassment during that period did not take place as mentioned by the second respondent in the complaint. So, it appears that absolutely, there is no basis for the second respondent, to give such a complaint.

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7. Even though, factual aspects cannot be gone into in this petition, but, in the light of the order passed by the Sub Court, Vedsanthur, was disputed by the second respondent. So, it can be taken into account to show the conduct of the second respondent.

8. The subsequent events also shows that both of them got married and settled in their life with new family and children. In the light of the subsequent events, continuation of the criminal proceedings, will amount to clear abuse of process of the Court and law. The case, which has been registered in the year 2012 is still pending. In the passage of time, subsequent development as mentioned above happened. So, no purpose is going to be served in keeping the criminal proceedings pending. On that ground, this petition is liable to be allowed.

9. Accordingly, the proceedings in C.C.No.26 of 2013 on the file of the learned District Munsif Cum Judicial Magistrate, Vedsanthur, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 District Munsif Cum Judicial Magistrate,
Vedsanthur.
2. The Inspector of Police,
All Women Police Station,
Vadamadurai, Dindigul District.



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

+1 CC to M/s.B.ROOBAN, Advocate (SR-29597[F] dated 20/09/2021)

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RD(27.09.2021) 4P 5C