



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVA

Crl.O.P.(MD)No.4650 of 2019

and

Crl.MP(MD)Nos.2856 of of 2019, 2458 of 2020 and 4068 of 2021

M.Vasantha Banu

: Petitioner/A1

Vs.

1.The Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District.
(In Crime No.4 of 2019)

: R1/Complainant

2.V.Umasree

: R2/De-facto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to Crime No.4 of 2019 on the file of the Inspector of Police, All Women Police Station, Karaikudi, Sivagangai District and quash the same in so far as the this petitioner/A1 is concerned.

For Petitioner : Mr.M.Jegadeesh Pandian

For 1st Respondent : Mr.R.Meenakshi Sundaram

Additional Public Prosecutor

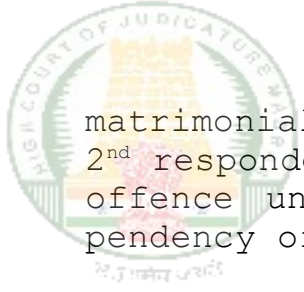
For 2nd Respondent : Mr.T.Antony Arulraj

O R D E R

This petition is filed seeking quashment of the FIR in Crime No.4 of 2019 pending on the file of the 1st respondent police.

2.The case of the prosecution in brief:-

The 2nd respondent is the de-facto complainant and married to this petitioner, which took place, on 22.02.2013. After the marriage, both went to America and they lived there for sometime. A male child was born to them out of the wedlock. During the joint living, there was a demand by the petitioner that additional gold jewels and cash as dowry. Thereafter, they returned to India and stayed in Bangalore. During that period also, the petitioner and his parents continuously harassed her to bring additional dowry. On 01.01.2018, the petitioner and his mother alleged to have abused the de-facto complainant and was driven out of the



matrimonial home. Based on the above said complaint given by the 2nd respondent, a case in Crime No.4 of 2019 was registered for the offence under sections 498(A), 406 and 506(i) IPC. During the pendency of the investigation, this petition came to be filed.

3. Notice was ordered to the 2nd respondent and she was also represented by a Counsel.

4. Seeking quashment of the FIR in Crime No.4 of 2019, this petition came to be filed mainly on the ground that false allegation has been given by the 2nd respondent without any basis, which is quite contrary to the earlier complaint given by her. During the course of anticipatory bail petition filed in CrI.OP (MD) No.22129 of 2018, the matter was referred to the Mediation and in the Mediation, it was not settled.

5. Heard both sides.

6. It is a case of harassment, criminal misappropriation and criminal intimidation. In the FIR, totally three persons were arrayed as accused. The first petitioner is the husband of the de-facto complainant and the other accused persons are the in-laws of the de-facto complainant, who are not parties to this proceedings.

7. A reading of the FIR shows that it was a happy married life for sometime and the de-facto complainant was given sufficient Sreethana at the time of marriage by her parents. But after sometime, trouble arose. According to the 2nd respondent, demanding settlement of property, which was standing in the name of her father, harassment was made when they lived for about a year in America and after the project was over, they returned to India. According to the de-facto complainant, at the time of stay at America, she was also going to work and earning and the earning money of Rs.36,00,000/- has also given to the petitioner and that was not returned to her. It is also alleged that because of the matrimonial dispute between her father-in-law and mother-in-law, both separated and so, at that time, she took her jewels to her parental home and this was objected by the petitioner and demand was made. Thereafter, both went to London and they resided there for a year. Again they returned to India and started staying in Bangalore. So according to her, at that time, he was harassed by demanding settlement of the house property in the name of the petitioner and some other allegations have also been made in the complaint about the conduct of the petitioner and the harassment that has been meted out to her.

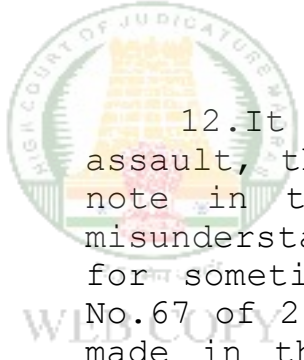
8. In major issue, it appears that frequent quarrel that took place between them. Now the allegation of the 2nd respondent is that she demanded more of additional dowry and she was harassed and they have also retained and misappropriated the jewels belonged to her. This is the major allegation.



9.As mentioned above, when the matter was referred to Mediation, it has been brought to notice of this court that the 2nd respondent has filed HMOP No.67 of 2019 on the file of the Sub Court, Devakottai, seeking divorce and that was also granted by the court. So finding that the matrimonial relationship came to an end, the matter was kept pending only for the purpose of settling the issue with regard to the jewels, cash and other things.

10.The main allegation of the 2nd respondent is that in-spite of repeated adjournments, the petitioner did not come forward to settle the amount and frequently, this matter was adjourned in order to give response to the petitioner. But later, this matter was heard on merits. At the time of argument, the learned counsel appearing for the petitioner would submit that the 2nd respondent has given the second complaint on the same date, but with different allegations. According to him, the first complaint is dated 10.12.2018, the copy of which is also enclosed in the typed set of papers, wherein repeated allegations mentioned in the FIR have been partly mentioned. In the concluding portion of the complaint, it has been stated that on 06.07.2018 when the 2nd respondent was preparing food, the petitioner assaulted her and driven out of the house. On the same date, another complaint has been given by mentioning the fact that on 25.11.2018, when her father came to Karaikudi along with relations for a compromise talk, at that time, wordy quarrel arose between her and the petitioner. So demanded her Sridhana back, but they refused and also criminally intimated and she was also assaulted by the petitioner and the mother-in-law. Her father was also assaulted. So this is the additional allegation that has been made in the complaint, which is not available in the earlier complaint on the same date by the 2nd respondent. This complaint has been received by the All Women Police Station, Karaikudi, Sivagangai District, on 18.11.2018 and was registered in CSR No.524 of 2018 and later, a case was registered, on 04.03.2019 for the offence under sections 498-A, 406 and 506(i) IPC. So according to the learned counsel for the petitioner, since exaggerated complaint has been given by the 2nd respondent contrary to the earlier complaint, the entire complaint is devoid of truth and absolutely it is *mala fide* action on the part of the 2nd respondent to wreck vengeance.

11.Subsequent to the above said incident, the 2nd respondent has given a lawyer notice on 16.03.2018 demanding return of jewels and demanding divorce. In the typed set of papers, the chat that took place between the petitioner and the 2nd respondent regarding the matrimonial issue has been annexed. Reading of the social media chat between the parties, it is seen that the 2nd respondent was only interested in dissolving the marriage and an attempt has been made by this petitioner to patch up the issue and that did not make any impact upon the mind upon the 2nd respondent.



12. It is also seen that after the above said occurrence of assault, the 2nd respondent went to her parental home by leaving a note in the house, wherein it is stated that because of the misunderstanding between them, she was stayed to with her parents for sometime. During the course of trial proceedings in HMOP No.67 of 2019, she has repeatedly stated the very same allegations made in the complaint. It has been observed that the issue has reached a point of no return. It has been concluded that physical mental torture has been established. Regarding Sridhana, it has been observed that there is no documentary evidence to show that all the Sridhanas have been returned to the 2nd respondent. It also appears that in the above said HMOP proceedings, the 2nd respondent has not filed any petition to direct the petitioner to return the articles. But a Xerox copy of the list that has been prepared by the petitioner produced by the 2nd respondent. It is also observed that the said document has not been properly proved. So in the light of the above developments, It may not be proper on the part of this court to quash the impugned proceedings in the initial stage. Let the investigation may complete to a logical conclusion. Depending upon the outcome of the investigating process, the parties can work their remedy. So I am of the considered view that it is not a fit case to quash the FIR at the initial stage. With whom the articles, it can be found out only during the course of investigation.

13. In view of the above, this criminal original petition is liable to be dismissed and accordingly, it is **dismissed**. However, considering the oldness of the matter, there shall be a direction to the first respondent to complete the investigation and file a final report within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /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



To,

1.The Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District.

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

Cr1.OP(MD)No.4650 of 2019
12.11.2021

KM(CO)
SB(09.12.2021) 5P 3C