



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.02.2021

DELIVERED ON : 12.03.2021

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CORAM :

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Crl.OP.(MD)No.13062 of 2020 &
Crl.MP(MD)No.5965 of 2020

1.B.Muthumalar

2.R.Babu@Yuvaraj

... Petitioners

vs.

1.State through Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.
(Crime No.12/2019)

2.Anuradha

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the First Information Report in Crime No.12 of 2019 on the file of the first respondent and quash the same in respect of the petitioners.

For Petitioners : Mr.S.Jeyasingh

For Respondents : Mr.S.Chandrasekar,
Additional Public Prosecutor for R1

Mr.M.Thirunavukkarasu for R2

ORDER

The present petition is filed seeking to quash the First Information Report in Crime No.12 of 2019 of All Women Police Station, Thilagar Thidal, Madurai.

2. The complaint of the defacto complainant reads as follows.

The second respondent / defacto complainant married one Rajkumar on 03.06.2018 at Madurai. At the time of marriage, 33 sovereigns of gold, household articles and a sum of Rs.30,000/- were given to the bride towards dowry. The defacto complainant's

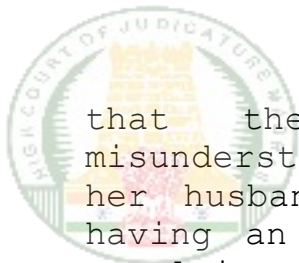


husband, Rajkumar, was temporarily working at Taluk Office, Othakkadai. In order to secure a permanent job, her husband and his parents demanded a sum of Rs.3,00,000/- towards dowry from the parents of the defacto complainant and same was given to him. Prior to the marriage of the defacto complainant with Rajkumar, Rajkumar was residing in the house of one Muthumalar, first petitioner/A2 who is his distant relative and this fact was not informed to the defacto complainant and her family members at the time of the marriage. However, immediately after marriage, the defacto complainant was taken over there and at the instigation of the first petitioner Muthumalar, the husband of the defacto complainant used to pick up quarrel with her. According to the defacto complainant, first petitioner / A2 cut her hair thereby disfiguring the face of the defacto complainant and also threatened her with dire consequences if she does not bring Rs.5,00,000/- as dowry from her parents. The defacto complainant's parents therefore gave another sum of Rs.5,00,000/- as demanded by him and despite the same, the present petitioners, defacto complainant's husband and her in-laws treated the defacto complainant cruelly. It is the further contention of the defacto complainant that since the first petitioner / A2 was having illicit intimacy with her husband, the marriage between her and her husband Rajkumar was not consummated.

3. Based on the complaint lodged by the defacto complainant, the Inspector of Police, All Women Police Station, Thilagar Thidal, Madurai registered First Information Report in Crime No.12 of 2019 for the offences punishable under Sections 498A, 406 and 506(i) of the Indian Penal Code and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998.

4. Mr.S.Jeyasingh, learned counsel appearing for the petitioners contended that since there are no specific overt act as against the petitioners / A2 and A3, the First Information Report in Crime No.12 of 2019 of All Women Police Station, Thilagar Thidal, Madurai should be quashed. He also drew the attention of this Court to a copy of the First Information Report and contended that the only allegation made against the first petitioner/A2 is that she cut the hair of the defacto complainant and that the second petitioner/A3 threatened the defacto complainant with dire consequences. Except these two bald allegations, there are no offences spelt out in the First Information Report. It is his further submission that the petitioners are not blood relatives of the defacto complainant's husband and therefore, there cannot be an offence under Sections 498A and 406 of the Indian Penal Code as against the petitioners.

5. *Per contra*, Mr.M.Thirunavukkarasu, learned counsel appearing for the second respondent/defacto complainant contended



that the petitioners alone are responsible for the misunderstanding that arose between the defacto complainant and her husband Rajkumar and that the first petitioner/A2 is also having an illegal relationship with the husband of the defacto complainant. He would further contend that the first petitioner/A2 forcibly cut and removed the hair of the defacto complainant, as a result of which, the face of the defacto complainant got disfigured and therefore, an offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 is clearly attracted as far as the present case is concerned. It is also contended by him that since the investigation is at initial stage, the First Information Report cannot be quashed.

6. Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the first respondent contended that since the complaint revealed cognizable offences against the present petitioners, who are accused 2 and 3 respectively, the police registered First Information Report in Crime No.12 of 2019 and commenced investigation. He also relied on the decision in M.Jayanthi vs. K.R.Meenakshi and Another in Criminal Appeal No.1817 of 2019 of the Hon'ble Supreme Court and contended that the role of the Court in a petition under Section 482 of the Code of Criminal Procedure for quashing a complaint is limited, and that while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, the High Court should not embark upon an enquiry to see whether the allegations are likely to be established or not. He therefore prayed for dismissal of the present petition.

7. A perusal of the First Information Report shows that the petitioners had treated the defacto complainant cruelly and that while the first petitioner/A2 cut the hair of the defacto complainant, the second petitioner/A3 threatened her with dire consequences. It is also the specific allegation of the defacto complainant that the petitioners were abettors in the offence of harassment committed by the defacto complainant's husband. It is appropriate to extract Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998.

"4. Penalty for harassment of woman. - Whoever commits or participates in or abets harassment of woman in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theater, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than ten thousand rupees."



A reading of the above provision makes it clear that any person who participates in or abets harassment of women is liable to be punished. Since there are specific allegations against the present petitioners, there cannot be any quashment of the First Information Report and that too when the investigation is at initial stage. A look at the complaint filed by the defacto complainant would show that the defacto complainant incorporated the ingredients necessary for prosecuting the petitioners for the offences alleged. The question whether the defacto complainant would be able to prove the allegations in a manner known to law would arise only at a latter stage.

8. In the decision in Skoda Auto Volkswagen India Private Limited vs. State of Uttar Pradesh and others reported in 2020 SCC OnLine SC 958, it has been held thus.

"It is needless to point out that ever since the decision of the Privy Council in King Emperor vs. Khwaja Nazir Ahmed, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on. As cautioned by this Court in State of Haryana vs. Bhajan Lal, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint. In S.M. Datta vs. State of Gujarat, this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In S.M. Datta (supra), this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere."

9. In view of the above, I do not find any reason to quash the First Information Report in Crime No.12 of 2019 of All Women



Police Station, Thilagar Thidal, Madurai. Accordingly, this
Criminal Original Petition is dismissed. Consequently, this
Criminal Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// 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 advocate/litigant concerned.

To

- 1.The Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.S.JEYASINGH, Advocate (SR-11013[F] dated 15/03/2021)

Order in
Crl.OP.(MD)No.13062 of 2020 &
Crl.MP(MD)No.5965 of 2020
12.03.2021

KM (24.03.2021) 5P 4C