



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P(MD)No.13752 of 2020

1.B.Sheeba

2.O.Beyula Elisabeth

... Petitioners

vs.

1.The District Superintendent of Police,
Nagercoil, Kanyakumari District.

2.The Sub Inspector of Police,
District Crime Branch,
Kanyakumari District, Nagercoil.

3.Mariya Das *

... Respondents

* 3rd respondent impleaded as per order passed by this Court
in Crl.M.P.No.6974 of 2020, dated 17.12.2020

PRAYER: Petition filed under Section 482 Code of Criminal Procedure,
to direct the respondents not to harass the petitioners under the
guise of enquiring into the complaint lodged by Mr.Mariya Dhas.

For Petitioner : Mr.N.Dilip Kumar

For R1 & R2 : Mr.V.Neelakandan,

Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to direct the
respondents not to harass the petitioners under the guise of
enquiring into the complaint lodged by the 3rd respondent.

2.The learned counsel for the petitioners would state that
the marriage between the 1st petitioner and the 3rd
respondent/defacto complainant took place on 15.07.2002 and the 1st
petitioner's parents had gifted 45 sovereigns of gold jewels to the
1st petitioner and 5 sovereigns of gold jewels to the informant and 2
sovereigns of gold bangles to the sisters of the defacto complainant
and 1/2 sovereign ring to the brothers of the defacto complainant
and Rs.1,00,000/- cash and household articles and utensils and 15
cents of land in the name of the 1st petitioner as dowry as demanded
by the defacto complainant and his parents. Out of the wedlock, two
girl children born namely, Dirsyia on 22.04.2003 and Bersya on
27.12.2005 and thereafter, the defacto complainant did not take care
of the 1st petitioner and joining with his parents, picked up wordy
quarrel with her for filmsy issues and caused mental and physical
hardship.



3. According to the 1st petitioner, her second daughter had some heart ailment and the entire expenses were borne by her parents. The 1st petitioner faced cruelty in the hands of her husband and her in-laws and subsequently, the defacto complainant completely stopped to provide food to her and gave away her 105 grams of gold jewels to his relative and when she questioned the same, the defacto complainant brutally assaulted her. Therefore, the petitioner filed O.S.No.106 of 2017 on the file of the Principal District Munsif, Padmanabhapuram, claiming maintenance on 29.04.2017. In the meantime, the 3rd respondent absconded and after a period of one month, he appeared before the Karungal Police Station and gave a statement that he will take care of the family. On 06.01.2020, in O.S.No.106/2017, maintenance was ordered by which, for the past maintenance, a sum of Rs.36,000/- was awarded and towards future maintenance, a sum of Rs.3,000/- per month was ordered. According to the petitioner, the said order was not complied with by the 3rd respondent/husband and when the 1st petitioner requested her husband to give family card for children's education, he refused to do so and abused her in filthy language. Therefore, the 1st petitioner lodged a complaint against the 3rd respondent before All Women Police Station, Marthandam, on 22.06.2020, in CSR.No.167/2020. After preliminary enquiry, no action was taken. Again, the petitioner sent a detailed representation to the District Superintendent of Police on 08.07.2020 to register a complaint against the proposed accused persons on the basis of her complaint dated 22.06.2020, but no action was taken and therefore, she filed Crl.M.P.No.1866 of 2020 before the learned Judicial Magistrate No.1, Kuzhithurai, to register a complaint and it is pending for filing status report by the respondent/police. After the said complaint, the 3rd respondent/husband deposited a sum of Rs.1,50,000/- towards maintenance. Now as a counter blast to the petitioner's complaint, the defacto complainant has filed vexatious complaint in CSR.No.376/2020 on 19.08.2020 against the 1st petitioner and her mother stating that his car was sold by the petitioners. Based on the complaint, the 1st petitioner was called for enquiry and she attended the enquiry before the District Crime Branch, Nagercoil, and had stated that the car was sold by her husband only.

4. The grievance of the 1st petitioner is that she is having two girl children and the defacto complainant himself has sold his car and had given a police complaint making false allegations by which, she is continuously being called for enquiry. Therefore, the petitioners are before this Court with the petition for not to harass.

5. The learned Additional Public Prosecutor would state that on the complaint of the 3rd respondent dated 19.08.2020 against the petitioners, enquiry is pending.



6. Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor for the respondents 1 and 2. Since no adverse order is going to be passed against the 3rd respondent, notice to him is not necessary.

7. Considering the facts and circumstances of the case, if at all the petitioners are required for any enquiry by the respondent/police, it shall be done by following guidelines of the guidelines laid down by the Hon'ble Apex Court in ***D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610.***

8. The Criminal Original Petition is disposed of with the above directions.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

bala/rm

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 Superintendent of Police,
Nagercoil,
Kanyakumari District.
2. The Sub Inspector of Police,
District Crime Branch,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.26368

ORDER MADE IN
Crl.O.P(MD)No.13752 of 2020
DATED : 17.12.2020

VB (19.01.2021) 3P 5C

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