



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P(MD)No.16511 of 2016

and

Crl.M.P(MD)Nos.8096 & 8097 of 2016

1.Rathina Kumar
2.Ayyasamy
3.Kiragalakshmi
4.Kaleeshwari
5.Devendran
6.Vairamani
7.Pradeep Kumar
8.Sundarajan
9.Kavitha

... Petitioners/Petitioners

-VS-

1.State Represented by the
Inspector of Police,
All Women Police Station,
Virudhunagar.
(In Crime No.33/2015.)

... Respondent/Complainant

2.Mrs.Muthulakshmi

... Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the charge sheet in C.C.No.177 of 2016, on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same in so far as the petitioners concerned.

For Petitioners : Mr.S.M.A.Jinnah
For R1 : Mr.A.Thiruvadikumar
Additional Public Prosecutor
For R2 : No appearance

O R D E R

This petition has been filed to quash the charge sheet, in C.C.No.177 of 2016, on the file of the learned Judicial Magistrate No.II, Virudhunagar, filed against the petitioners herein, who are the defacto complainant's husband and his relatives.



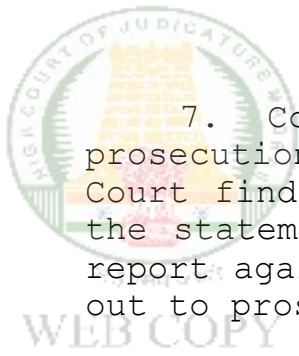
2. The facts of the case is that the first accused married the second respondent on 20.02.2005, they lived together for nearly 10 years and thereafter, a complaint has been lodged against the petitioners and one Amuthadevi, who is the stranger to the family. But, according to the complaint, she had illicit intimacy with the first accused, who is the husband of the defacto complainant. Her husband, his family members and the said Amuthadevi joined together and causing cruelty. Based on the complaint given by the second respondent on 03.11.2015, the first respondent police has investigated the case and recorded 161(3) statement of the witnesses and has filed a final report against A2, A3, A5, A7, A8 and A9 for offences under Sections 498(A) IPC; Against A-10 for offences under Sections 498(A) and 506(i) IPC; Against A4 and A6 for offence under Sections 498(A), 294(b) and 506(i) IPC and insofar as the first petitioner Rathinakumar, who is the husband of the defacto complainant, under Sections 498(A), 406, 294(b) and 506(i) of IPC.

3. The main ground for seeking quash of the charge-sheet is that the first respondent has failed to follow the procedure under Section 154 and 173 Cr.P.C., while filing the final report and when there was no untoward incident happened on the alleged date of occurrence, the charge under Section 506(i) and 294(b) IPC has no basis. The prosecution has failed to follow the dictum of the Hon'ble Supreme Court, wherein, there is a specific order directing the Investigating Officer to be restrainable while dealing the matrimonial disputes and all the family members should not be roped in unless there is a reliable material.

4. The learned counsel appearing for the petitioners would submit that it has become normal practise by the defacto complainant's in the matrimonial dispute to rope all the members, who either living abroad or unconnected to the affairs and this is one such case, where, the entire family members have been roped in, though some to them are not even residing at Virudhunagar.

5. The learned Additional Public Prosecutor appearing for the first respondent submitted that the defacto complainant has narrated how she was put to harassment by the petitioners herein on various occasions and they are thrown abusive words against her. As far as the 10th accused Amuthadevi, who is the stranger to the family, this Court, has taken note of the fact that Section 498(A) IPC restricts to husband or relative of husband of the women and since the said Amuthadevi was not a relative of the defacto complainant's husband, quashed the proceedings against Amuthadevi A-10. The same yardstick will not apply to the petitioners herein, who are the husband and relative of the husband.

6. The second respondent herein though served notice has not entered appearance.



7. Considering the material documents relied on by the prosecution, which has been filed along with final report, this Court finds that based on the *prima facie* material culled out from the statement of the witnesses, the prosecution has laid the final report against these petitioners and since *prima facie* case is made out to prosecute them, the case against them cannot be quashed.

8. While dismissing the Criminal Original Petition, this Court taking note of the fact that the complaint is of the year 2015 and already 6 years has been lapsed, it is appropriate to direct the trial Court to complete the trial within a period of four months from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Original Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

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 Judicial Magistrate No.II,
Virudhunagar.
- 2.The Inspector of Police,
All Women Police Station,
Virudhunagar.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.16511 of 2016
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NSN (CO)

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