



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD)No.5686 of 2016

and Crl.M.P(MDNos.2814 and 2815 of 2016

WEB COPY

1.S.Sankar
2.Subramaniya Iyer
3.Vijaya @ Rugmini Ammal
4.Gomathy Ammal @ Vathsela ... Petitioners/R1 to R4

Vs.

Ponnulexmi ... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in M.C.No.9 of 2015 on the file of the learned Judicial Magistrate Court No.III, Nagercoil.

For Petitioners : No appearance

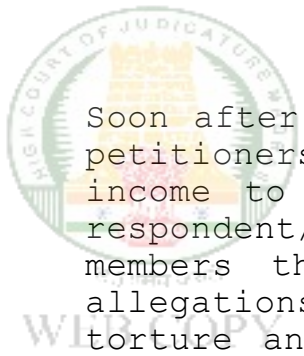
For Respondent : No appearance

O R D E R

This petition has been filed seeking quashment of M.C.No.9 of 2015 on the file of the learned Judicial Magistrate Court No.III, Nagercoil.

2. The petitioners herein are the respondents in M.C.No.9 of 2015 on the file of the Judicial Magistrate No.III, Nagercoil. The respondent herein is the complainant in M.C.No. 9 of 2015 filed under Section 12 of Protection of Women from Domestic Violence Act, 2005 alleging that the petitioners herein are her husband, father-in-law, mother-in-law and cousin. Her husband had subjected her to domestic violence by retaining her jewels and household articles and not providing her accommodation or maintenance. Therefore, a petition under Section 19(8) of the aforesaid Act has been filed for reliefs.

3. Whereas, in the petition to quash the proceedings, it is stated that after solemnization of marriage with the first petitioner, the respondent/wife started revealing her arrogant and domineering characteristics towards her husband and parents-in-law.



Soon after the birth of two children, she started ill-treating the petitioners with her rude behavior and she demanded to give all his income to her, which was resisted by the first petitioner. The respondent/wife started threatening her husband and his family members that she will lodge a complaint against making false allegations of dowry harassment and put them in prison. Since her torture and atrocity were unbearable, the first petitioner filed H.M.O.P.No.1266 of 2013 on 17.08.2013 on the file of the Family Court, Trivandrum.

4. On receipt of the notice in the divorce petition, instead of contesting the divorce petition, the respondent/wife has given a false complaint before the All Women Police Station, Kanyakumari District on 17.07.2014. The police, who enquired the matter, found falsity in her complaint and advised her to proceed her case before the Family Court, Trivandrum in H.M.O.P.No.1266 of 2013. Thereafter, the respondent/wife has approached the Judicial Magistrate Court through Crl.M.P.No.3674 of 2014 seeking a direction to register the case for dowry harassment. In pursuance of the direction of the Judicial Magistrate, a case in Crime No.15 of 2014 has been registered for the offences punishable under Sections 498(A), 406, 294(b) IPC and Sections 3 and 4 of Dowry Prohibition Act and Section 4 of Tamilnadu Prohibition of Harassment of Women Act on 11.05.2006. The said case has been registered on false allegation against the petitioners.

5. Thereafter, the respondent/wife filed M.C.No.9 of 2015 before the Judicial Magistrate No.III, Nagercoil under Section 12 of the Protection of Women from Domestic Violence Act, 2005 with an intention to harass the petitioners. To quash the said proceedings, the petitioners have filed the present Criminal Original Petition.

6. In the affidavit filed in support of this quash petition, it is averred that the petitioners 2 to 4 are no way connected with the alleged dowry demand or the properties listed in the petition. The first petitioner/husband the respondent/wife were not living together for longtime even before filing of the complaint which is evident from institution of H.M.O.P.No.1266 of 2013 filed on 17.08.2013. Whereas the respondent herein has filed a petition under Domestic Violence Act seeking accommodation, maintenance and return of properties against the husband as well as his family members on 08.09.2015, which is belated and after thought to counter blast the divorce petition.

7. Further, it is contended that the averment found in the complaint indicates that the occurrence of crime commenced on 11.05.2016 soon after the marriage, whereas the complaint is given after the respondent herein gave birth to two children and after filing H.M.O.P for divorce, falsely implicating arraying the in-laws also as the respondents.



8. Though there is no representation for the petitioners as well as the respondent, a perusal of the records clearly indicates that the contents of the complaint embedded with facts that have no supporting document. Except the oral complaint alleging harassment by the in-laws, the complaints from the respondent/wife started coming after 22.07.2014, whereas the petition for divorce was filed on 17.08.2013 a year earlier to the complaint.

9. Relying upon the said judgment in **Preeti Gupta and another Vs. State of Jharkhand and another** reported in **2010 (7) SCC 667**, this Court holds that the complaint against the petitioners is an after thought and to counter blast to H.M.O.P.No.1266 of 2014. Therefore, the proceedings in M.C.No.9 of 2015 on the file of the learned Judicial Magistrate Court No.III, Nagercoil. is liable to be quashed. Accordingly, the same is quashed.

10. In fine, this Criminal Original Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

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

The Judicial Magistrate No.III,
Nagercoil.

Crl.O.P. (MD)No.5686 of 2016
and Crl.M.P(MDNos.2814 and 2815 of 2016

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