WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P(MD)No.10541 of 2017

and

Crl.M.P(MD)Nos.7217 and 7218 of 2017

1.Esakkiammal

2.Seenivasan

3.Hemalatha

4.Manikandan

5.Ghanothayam

6.Selvi ... Petitioners/A-2 to 7

Vs

1.The State of Tamil Nadu,
Represented by its Inspector of Police,
All Women Police Station,
Tiruchendur, Thoothukudi District.
[Crime No.1 of 2017] ... 1st Respondent / complainant

2.Muthulakshmi ... 2nd Respondent / De-facto

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.51 of 2017 on the file of the learned Judicial Magistrate, Sathankulam, Thoothkudi district insofar as the petitioners are concerned and quash the same as illegal.

For Petitioners : Mr.V.P.Rajan
For Respondent No.1 :Mr.R.Anandharaj, Additional Public Prosecutor,
For Respondent No.2 :Mr.A.G.Ganesha Moorthi

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.51 of 2017 on the file of the learned Judicial Magistrate, Sathankulam, Thoothkudi district insofar as the petitioners are concerned.

2.The petitioners are in-laws of second respondent / *de facto* complainant accused in C.C.No.51 of 2017, and they are facing

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

charges for the offence under Sections 498(A) and 406 of IPC and Section 4 of the Dowry Prohibition Act, 1961 before the trial Court.

3.Mr.V.P.Rajan, learned Counsel appearing for the petitioners in support of this petition would submit that the marriage between the second respondent / *de facto* complainant and Mahesh @ Murugan [Accused No.1] had taken place on 10.12.2014 and within fifteen days from the date of marriage, the second respondent had left the matrimonial home, since she was having extramarital affairs with some one. Therefore, the husband of the *de facto* complainant filed a petition on 30.01.2015 in H.M.O.P.No.44 of 2015 before the Family Court, Tirunelveli to declare the marriage solemnised between him and the second respondent on 10.12.2014 as null and void. However, the Family Court dismissed the said petition that it was not maintainable and thereafter, the husband re-presented it and the same is pending in H.M.O.P.No.92 of 2016 before the Court concerned. In the meanwhile, the second respondent / *de facto* complainant filed a petition in H.M.O.P.No.289 of 2015 for restitution of conjugal rights before the Sub Court, Thoothukudi on 25.09.2015 and the same is also pending.

4.The learned Counsel for the petitioners would point out that the second respondent voluntarily deserted the matrimonial home. However, she has filed a petition seeking conjugal rights in the year 2015 and lodged a complaint in the year 2017 to harass the petitioner and her in-laws, whereas the husband of the second respondent has filed a petition for divorce on 30.01.2015 within fifty days from the date of marriage.

5.Even according to the second respondent / *de facto* complainant she had left the matrimonial home on 24.12.2012 within fifteen days from the date of marriage. He would further submit that petitioners 1 to 4 are residing in Bangalore and the husband Mahesh was also residing in Bangalore. The marriage was solemnised at Tiruchendur and they commenced their marriage life only in Bangalore. Whereas, the petitioners 5 and 6, who were residing at Madurai have also been roped in on certain vague allegations and the respondent Police has also filed a report in a mechanical manner and therefore, the learned Counsel requested that the prosecution initiated as against the petitioners / in-laws, who are in no way connected with the affairs of the husband and wife is liable to be quashed.

6.The learned Additional Public Prosecutor appearing for the first respondent would submit that based on the complaint of the second respondent, the respondent Police has conducted investigation, which revealed that there was a demand of dowry by the petitioners on 14.12.2014 and therefore, based on the available materials they have filed the final report as against these petitioners. He would further submit that in support of the final

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

report, they have also cited nine witnesses as prosecution witnesses.

7.Mr.Ganesha Moorthy, learned Counsel appearing for the second respondent / *de facto* complainant would submit the second respondent has lodged a complaint as against her husband and in-laws / petitioners herein that they have demanded more dowry immediately after the marriage on 14.12.2014 and the petitioners have doubted the jewels gifted by the parents of the second respondent that those jewels were imitation of gold. She was also driven out of the matrimonial home within fifteen days from the date of marriage. Though respondents 5 and 6 are said to be residing at Madurai, they were also present in the matrimonial home in Bangalore and they have also demanded dowry along with other accused. The second respondent / *de facto* complainant and others have also spoken about the role of 5th and 6th respondents and others in their statement, which can be decided only during the trial. However, the second respondent / *de facto* complainant expressed her willingness to reunite with her husband Mahesh.

8.This Court paid its anxious consideration to the rival submissions and also perused the materials available on record.

9.Though the petitioners claim that it is on account of the dispute between the husband and wife, the second respondent deserted the matrimonial home and is residing with her parents. The husband has also filed a petition for divorce as early as on 30.01.2015. There are specific allegations as against these petitioners that they also demanded dowry on account of the same, the second respondent was driven out of the matrimonial home.

10.A perusal of the materials would disclose that there are certain allegations as against these petitioners, which can only be decided during the course of trial and the grounds raised by the petitioners in support this petition cannot be considered at this stage. Therefore this Court is not inclined to entertain this quash petition.

11.In the light of the above discussion, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all the grounds raised in this petition before the trial Court. However, considering the fact that the first petitioner being an octogenarian, the trial Court shall consider, the application if any filed by her, for dispensing with her personal appearance during the course of trial.

12.The trial Court shall proceed with the trial and take a decision independently without being influenced by any of the observations made by this Court in this petition. Since the final report in this case was been filed in the year 2017, the trial Court is directed to expedite the trial and conclude the same within a period of six months from the date of receipt of a copy of this

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar CS-II

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

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,
Sathankulam,
Thoothkudi.

2. The Chief Judicial Magistrate,
Thoothkudi District.

3.The Inspector of Police,
All Women Police Station,
Tiruchendur,
Thoothukudi District.

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

+1 CC to M/s.A.D.GANESHA MOORTHI, Advocate (SR-16449[F] dated 19/04/2021)

Crl.O.P(MD)No.10541 of 2017

16.04.2021

CN(19.05.2021) 4P 5C

https://hcservices.ecourts.gov.in/hcservices/