



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 17.03.2021
PRONOUNCED ON: 19.04.2021
CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

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Crl.O.P. (MD) Nos.14559 and 17601 of 2017

and

Crl.MP (MD) Nos.9700, 9701, 11524 and 11525 of 2017

1.Sakila
2.Baby
3.Murugesh
4.Ramesh

... Petitioners/Accused in
Crl.O.P(MD)No.14559 of 2017

1.Packialakshmi
2.Balakumararaja

... Petitioners/Accused in
Crl.O.P(MD)No.17601 of 2017

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli.
(Crime No.11 of 2019)

... 1st Respondent/Complainant in
both Crl.O.Ps.

2.Asirvatham

... 2nd Respondent/Defacto Complainant in
both Crl.O.Ps.

Common Prayer:Criminal Original Petitions are filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.375 of 2017, pending on the file of the Judicial Magistrate No.III, Tirunelveli and quash the same.

In both petitions:

For Petitioners : Mr.S.Deenadhayalan

For R1 : Mr.M.Ganesan
Government Advocate (Crl.side)

For R2 : No Appearance



COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.375 of 2017 on the file of the learned Judicial Magistrate No.III, Tirunelveli.

2.Brief facts of the case, which are common in both the petitions:-

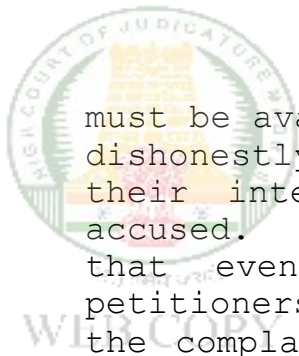
The marriage proposal was arranged between one Shanthi, daughter of the de-facto complainant and the second accused, namely, Balakumara Raja. The betrothal was performed on 23.02.2014 at about 10.00 a.m and the marriage was fixed to be performed on 13.04.2014. There was misinformation about the physical condition of Shanthi to the accused Nos.1 and 2. So, they stopped the marriage. When the de-facto complainant approached the accused for performance of marriage, they told that the second accused was not willing to marry Shanthi. So, all the accused are punishable under Section 417 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. Based upon the complaint given by the defacto complainant, the case in Crime No.11 of 2015 was registered on 28.07.2015 and after completion of the investigation, final report was filed before the learned Judicial Magistrate No.3, Tirunelveli and it was taken on file in C.C.No.375 of 2017. Seeking quashment of the final report, both the petitions were filed by the accused before the this Court. In both the petitions, the common ground is that the allegation mentioned in the complaint as well as in the final report do not make out a *prima facie* case for the offences punishable under Section 417 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

3.Heard both sides.

4.In spite of service of summons, there is no appearance on behalf of the second respondent.

5.From the facts narrated above, it is seen that the daughter of the defacto complainant was originally to be married to the second accused namely, Balakumararaja. But, subsequently, due to misinformation about the physical condition of the daughter of the de facto complainant, the marriage was stopped and refused to take the daughter of the de facto complainant in marriage. So, the question arises for consideration in the facts and circumstances of the case, whether the offence under Section 417 IPC is attracted?

6.For Section 417 IPC the definition Section is 415 IPC. For attracting the offence under Section 417 IPC, *prima facie* materials



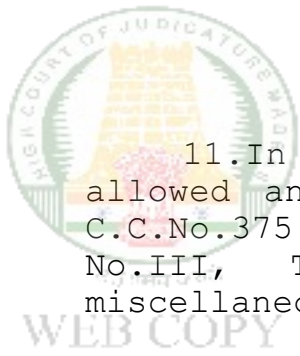
must be available that the petitioners herein in both the cases have dishonestly or fraudulently induced the *defacto* complainant about their interest of getting marriage of Shanthi to the second accused. It is not even mentioned in the complaint to the effect that even at the time of making arrangement proposal, the petitioners entertained an intention of deception. Even though in the complaint, it is mentioned by the *defacto* complainant that on the side of the second accused more dowry and Seervarisai were demanded, but during the course of investigation, the *defacto* complainant has not made such an averment and only has mentioned that because of some misinformation about the physical condition of Shanthi, the petitioners refused to carry on the marriage proposal. There is no material on record to show that the petitioners have intentionally and dishonestly indulged in the marriage proposal. So, the ingredients of Section 415 IPC are not attracted. Similarly, the averments made in the complaint as well as in the final report do not attract any of the ingredients of Section 415 IPC.

7.The next allegation is that the petitioners committed an offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act 1998 and Section 2 (a) of the Act defines the term harassment. According to this definition, there must be indecent conduct or act by a man which causes or is likely to cause intimidation, fear, shame or embarrassment, including abusing or causing hurt or nuisance or assault or use of force.

8.According to the prosecution, because of the refusal to carry on the marriage proposal, the daughter of the *defacto* complainant got ashamed and also got embarrassment. As mentioned earlier, there must be a clear intention on the part of the petitioners to shame or cause or embarrass but here as mentioned earlier, the marriage proposal was broken due to some misinformation.

9.Though it may be unfortunate event that the marriage proposal of the daughter of the *defacto* complainant failed due to some misinformation but no criminal action will lie and if at all only civil action only.

10.When the Court asks the learned counsel for the petitioners and the Additional Public Prosecutor appearing for the State, they were not in a position to inform the present stage or status of the daughter of the *defacto* complainant as well as the second accused. The offence of the year 2014 and seven years have lapsed. By this time, the daughter of the *defacto* complainant and the second accused would have married and settled in life. So, in my considered view, by this length of time, no useful purpose will be served by perusing the criminal case when the basic ingredients of the offences punishable under Section 417 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act 1998 are absent.



11. In my considered view, both the petitions are liable to be allowed and accordingly, they are allowed and the proceeding in C.C.No.375 of 2017 pending on the file of the Judicial Magistrate No.III, Tirunelveli, stands quashed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

vsd

To

1.The Judicial Magistrate No.III,
Tirunelveli.

2.The Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli.

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

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-16564[F] dated 20/04/2021)

Crl.O.P.(MD)Nos.14559 and 17601 of 2017

and

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19.04.2021

GS (07.05.2021) 4P 5C