



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.02.2021

PRONOUNCE ON : 29.03.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.15416 of 2017

and

Crl.MP(MD)No.10244 of 2017

1.R.Maglin
2.A.Romeo Julier @ Romeo Julier Arul
3.R.Mettilda
4.R.Immanuvel
5.R.Emmaculate
6.R.Sharal @ Sandhasarala ... Petitioners/Accused Nos.1 to 6

Vs.

1.The State of Tamil Nadu Rep by
The Inspector of Police,
Thuvakkudi Police Station,
Trichirappalli District.
(Crime No.353 of 2017) ... Respondent/Complainant

2.K.Krishnamoorthy ... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to Crime No.353 of 2017 pending on the file of the 1st Respondent/Police and quash the same.

For Petitioners : Mr.R.Suresh Kumar
For R1 : Mr.R.Anandharaj
Additional Public Prosecutor

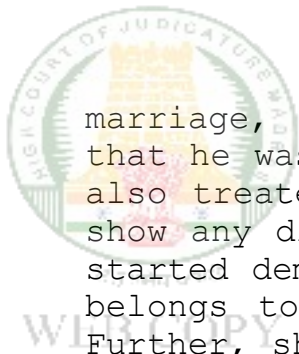
For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the case in Crime No.353 of 2017, pending on the file of the 1st Respondent/Police.

2. The case of the prosecution as narrated in the First information Report is briefly stated as follows:-

i) The first accused Maglin was married to one Anbu, who is the son of the defacto complainant on 21.05.2015. Because of the marriage, they got a child by name, Helan. Right from the date of



marriage, the first accused started harassing the husband stating that he was not fit and matching to her. The defacto complainant has also treated the first accused as his daughter. The husband did not show any dislike towards the first accused. Later, the first accused started demanding that if she to live with the husband, the property belongs to the defacto complainant must be settled in her favour. Further, she did not take care either of the house hold works or the child. In the year 2017, during the month of January, she became pregnant for the second time. The accused 2 to 6 had forced the first accused to abort the child. The same was objected to by the husband and the defacto complainant. On 06.03.2017, the first accused left the matrimonial house and aborted the child without informing anyone. When it was questioned by the defacto complainant and her husband, she replied that she is not willing to give birth to the child to her husband. She also even refused to come to the matrimonial home.

ii) On 12.03.2017, all the accused persons trespassed into the house of the defacto complainant and had taken away the house hold articles and jewels, also caused damage to the remaining articles and assaulted the defacto complainant, for which, he was admitted in the hospital. He also gave a statement, when he was admitted in the hospital. Even after that, there was no action taken by the police officials. So, the defacto complainant, sent a complaint to the Higher Officials. On the basis of the direction given by the learned Judicial Magistrate, Trichy in Crl.MP.No.3568 of 2017, under Section 156 (3) Cr.P.C, a case was registered in Crime No.353 of 2017 for the offences punishable under Sections 147, 294(b), 324, 447 and 506 (ii) IPC.

3. Seeking quashment of the First Information Report, this petition is filed mainly on the ground that the present First Information Report was registered, on the basis of the second complaint, which is not permissible under law.

4. Heard both sides.

5. Perusal of records as well as hearing the parties shows that a long standing matrimonial dispute exists between the first petitioner and her husband namely, Anbu, who is the son of the defacto complainant.

6. According to the petitioners, the First Information Report was filed, after a delay of six months from the date of alleged incident. After the complaint given by the first petitioner herein, dated 25.07.2017, against the defacto complainant, his son and other in-laws, case was registered in Crime No.6 of 2017, on the file of the All Women Police Station, Tiruverumbur and the same is also filed along with the typed set of papers.



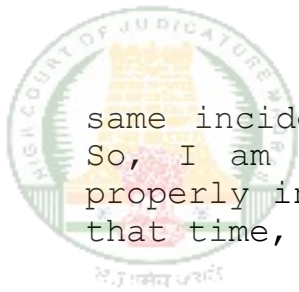
7. The date of complaint is 25.07.2017, wherein, the first petitioner has stated that after the marriage her husband started harassing her by demanding jewels and a car. The husband and his family members, threatened the first accused that she could live with him happily if only the demands are met with. Before her pregnancy, her life was not smooth and the harassment continued. On 06.07.2016, a female child was born to her. But, her husband and the in-laws did not visit the child. Even after the birth of the child, they demanded jewels for the child. On 06.03.2017, her husband left her along with child in her parental house. On 11.03.2017 her husband and mother-in-law took the child forcibly without her consent and the request made by her was not considered. She was also abused in filthy language by her husband and in-laws. So based on this complaint, a case in Crime No.6 of 2017 was registered for the offences punishable under Sections 294(b), 323, 498(A) IPC and r/w Section 4 of Domestic Violence Act. It appears that it was also pending for investigation.

8. After this case, the husband had filed a petition in I.D.O.P.No.19 of 2017 before the Family Court, Trichirappalli District, against the first petitioner seeking for a decree of divorce. The date of filing of the petition is 06.04.2017. After that, the first petitioner filed a petition in M.C.No.42 of 2017 seeking maintenance for herself and on behalf of her child before the very same Family Court, Trichy in the same month. Subsequent development are not known.

9. Reading of the document clearly shows that dispute arose between the first accused and her husband. In such circumstance, the contention on the part of the petitioner that there was a delay of 7 days in lodging the complaint and that too, it is the second complaint cannot be accepted. It is clearly stated by the defacto complainant, in the complaint with regard to the incident that took place on 12.03.2017. No action was taken by the police and so, he approached the Judicial Magistrate No.VI, Trichy, for registering a case in Crl.MP.No.3568 of 2017 under Section 156 (3) Cr.P.C. So, the contention on the part of the petitioner that it is the second complaint cannot be accepted.

10. The petitioner also would rely upon the judgment of this Court reported in **A.Krishna Rao Vs L.S.Kumar 1998 (I) CTC 329** which is not applicable to the facts of this case. Similarly, the arguments that time of occurrence was not mentioned in the complaint cannot be also taken into account at this stage for quashing the First Information Report. The omissions that said to have been taken place for lodging the petition cannot be also a ground for consideration in this petition and those facts can be appreciated only at the time of trial.

11. Perusal of both the complaints given by the parties, shows that the facts are in counter. So, in respect of the very



same incident, both the parties have preferred separate complaints. So, I am of the considered view that both the complaint must be properly investigated and the police must file final report. Only at that time, the truth will come out.

12. Hence, it is not a fit case to exercise the jurisdiction under Section 482 Cr.P.C, to quash the First Information Report. Hence, I find no merit in this petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-1)

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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.

To

- 1.The Inspector of Police,
Thuvakkudi Police Station,
Trichirappalli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.15416 of 2017
and
Crl.MP (MD)No.10244 of 2017
29.03.2021

das
AM/29/04/2021/4P/3C