



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 16.12.2021**

CORAM

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**Crl.O.P(MD)No.15838 of 2017**

and

**Crl.MP(MD)Nos.10521 and 10522 of 2017**

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S.Vanitha : Petitioner / Accused No.4

Vs.

1.The Inspector of Police,  
All Women Police Station,  
Sivakasi,  
Virudhunagar District.  
[Crime No.1 of 2016]

2.Rajkavi @ Swornalakshmi : Respondent / *De facto* complainant

**Prayer:** Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge in C.C.No.267 of 2017 on the file of the Judicial Magistrate, Sivakasi in connection with case in Crime No.7 of 2017, under Section 498(A) IPC and Section 4 of Dowry Prohibition Act, 1961, dated 01.03.2016 and quash the same as illegal as against the petitioner.

|                 |                              |
|-----------------|------------------------------|
| For Petitioners | : Mr.D.Balamurugapandi       |
| For Respondent  | : Mr.R.Anandharaj,           |
| No.1            | Additional Public Prosecutor |
| For Respondent  | : Mr.Veerapandian            |
| No.2            | for M/s.Vast Law Associates  |

### **ORDER**

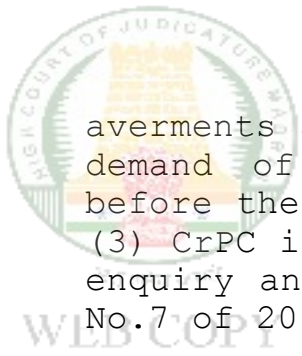
This petition has been filed by accused No.4 in C.C.No.267 of 2017 pending on the file of the learned Judicial Magistrate, Sivakasi to quash the proceedings pending against her.

2.The first respondent police registered a case based on the complaint lodged by the second respondent dated 01.03.2016 as against this petitioner and six others in Crime No.7 of 2016 for the offence under Section 498(A) IPC and Section 4 of Dowry Prohibition Act. After completion of the investigation, the respondent police filed a final report as against the petitioner and others under Section 498(A) IPC and Section 4 of Dowry Prohibition Act on 02.06.2017 and the same was taken on file by the learned Judicial Magistrate, Sivakasi in C.C.No.267 of 2017.



3.The case of the second respondent is that her marriage with the first accused one Veerabharathi was solemnised at Sivakasi on 15.09.2011 and at that time of the marriage, her parents gifted her 55 sovereigns of gold ornaments and 6½ sovereigns to her husband Veerabharathi, apart from other usual household articles worth about rupees seven lakh. After the marriage they lived happily for three months. On 08.02.2012 at the instigation of other accused, her husband Veerabharathi demanded a sum of rupees two lakh for the purpose of doing business. Subsequently, on 10.03.2012, the accused went to the house of her parents and demanded the said amount. It is her further case that accused No.7 abused her, as if she has having relationship with others. While so, the second respondent's husband got job in Chennai on 05.04.2012 and thereafter, they were residing at Chennai in a rented house. Even at Chennai, on 28.04.2012 the accused visited her and demanded a sum of rupees two lakh as dowry. Since the second respondent became pregnant, the first accused left the second respondent in her parents' house on 05.11.2012 and used to visit her once in a month. Whenever he visited her house, he demanded the dowry amount. On 23.06.2013 the second respondent gave birth to a male child and thereafter, the first accused demanded rupees ten lakh at the instigation of the other accused that he was intending to act in cinema. Since the second respondent's parents did not pay the amount as demanded by the accused, she was left in her parents house and therefore, a panchayat was held on 25.05.2015, the accused insisted dowry amount and was not willing for any compromise. Thereafter, the second respondent lodged a complaint before the All Women Police Station, Sivakasi on 05.06.2015 and then filed a complaint before the learned Judicial Magistrate, Sivakasi and on the directions of the Court this case has been registered.

4.Mr.Balamurugapandi, learned Counsel for the petitioner submits that the marriage between the first accused and the second respondent was solemnised at Sivakasi on 15.09.2011 and thereafter they were living together at Chennai, since the first accused was working at Chennai. The first accused often used to leave the matrimonial home and there was a dispute between the husband and wife. The first accused/ husband of the second respondent has filed a petition for divorce before the Family Court at Chennai during January 2013 in HMOP.No.30 of 2013. The respondent appeared in that petition and filed a counter affidavit in the month of January 2014 and in that counter affidavit, she has not made any such averments as against this petitioner as well as other accused, instead she filed a petition for restitution of conjugal rights in the month of May 2015 before the Sub Court, Sivakasi in HMOP.No.109 of 2015. Even in that application filed for



averments as against the petitioner mentioning the alleged date of demand of dowry. The second respondent lodged this complaint before the learned Judicial Magistrate, Sivakasi under Section 156 (3) CrPC in Crl.M.P No.12116 of 2015 and the same was referred for enquiry and the first respondent has registered the case in Crime No.7 of 2016 on 01.03.2016.

5.The case of the petitioner is that she has married one Sivakumar and is residing with her husband at Krishnagiri. However, she is implicated as an accused on certain vague allegations. He would further submit that even according to the complainant, the alleged demand is said to have taken place at Chennai, whereas the complaint has been registered by the first respondent police at Sivakasi, when the first respondent has no territorial jurisdiction. There is no *prima facie* material available to invoke the offence under Section 498 (A) IPC and Section 4 of Dowry Prohibition Act against this petitioner since she was living separately and there is no specific allegation as against her.

6.The learned Counsel for the petitioner has also relied upon the following decisions of the Hon'ble Supreme Court.

1.**Preeti Gupta and another Vs State of Jharkhand and another**, reported in (2010) 7 SCC 667.

2.**Sushil Kumar Sharma Vs Union of India and Others**, reported in (2005) 6 SCC 281.

7.The learned Additional Public Prosecutor appearing for the first respondent would submit that based on the complaint referred to by the learned Judicial Magistrate under Section 156(3) CrPC, it was duly registered on 01.03.2016 in crime No 07 of 2016, during the course of investigation, the Inspector of Police, All Women Police Station has examined all the witnesses and based on the available materials, filed the final report. As per 161(3) CrPC statement of the complainant, there are specific averments as against this petitioner also and therefore, there is no reason to interfere with the proceedings pending against the petitioner.

8.Mr.Veerapandian, learned Counsel appearing for the second respondent submitted that though the petitioner is residing in another place, she often visited her parents' house, wherein the petitioner/A4 along with other accused has also demanded dowry from the second respondent/ *defacto* complainant and other witnesses have specifically mentioned about the role played by the petitioner herein. Therefore, the truth or otherwise of the same can only be decided during the trial.



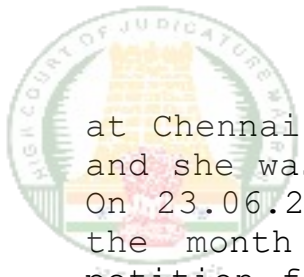
9.This Court paid its anxious consideration to the rival submissions made and perused the available materials on record.

10.The marriage between the second respondent and the first accused was solemnised at Sivakasi on 15.09.2011 and after the marriage, they were living together at Chennai. Within two years, there were misunderstandings between the second respondent and the first accused. Therefore, the first accused filed an application to dissolve their marriage at Family Court, Chennai in the month of June 2013 in HMOP No.130 of 2013. In the said application, the first accused had taken a stand that the second respondent often used to leave the matrimonial home without informing him and on a particular day, the second respondent left the matrimonial home by leaving a note that she was not intending to live with him any more.

11.The second respondent *defacto* complainant has also entered appearance in the said HMOP No.130 of 2015, filed the counter affidavit in the month of June 2014, wherein she has not made any averments as against the petitioner that there was any dowry harassment from her. The second respondent has also filed a petition for restitution of conjugal rights before Sub Court in the month of May 2015 and the same is pending before the Sub Court, Sivakasi in HMOP No.109 of 2015 and in the said petition only, the second respondent has made certain allegations, as if the petitioner has demanded dowry. Even these allegations are made without any specific instances

12.The second respondent lodged the complaint before the All Women Police Station, Sivakasi on 05.06.2015, thereafter, sent the complaint to the Superintendent of Police by registered post on 18.06.2015 and filed the complaint under Section 156(3) CrPC. The learned Judicial Magistrate referred the same to the first respondent for enquiry, the first respondent has registered the case in Crime No.7 of 2016 on 01.03.2016, conducted the investigation and filed the final report on 02.06.2017. From the available materials it can be seen that there is no specific averment against this petitioner / A4 for demand of dowry in the earlier proceedings. Even in the complaint filed under Section 156 (3) CrPC, the dates 08.02.2012 and 10.03.2012 were inserted, as if on a particular day there was a demand of dowry. In the 161(3) CrPC statement, some details are incorporated as if there was a demand of dowry on certain days, wherein this petitioner was also present and demanded dowry along with other accused.

12.In this case the marriage between the first accused and the *defacto* complainant was solemnised in the year 2011 and the first accused was working at Chennai and admittedly, the first accused and the second respondent were living together in a rented house



at Chennai. The second respondent got conceived in the year 2012 and she was left in her parents' house for delivery on 05.11.2012. On 23.06.2013 she begot a child. Even before that it appears in the month of January 2013 her husband first accused filed a petition for divorce in the Month of June in H.M.O.P(MD)No.130 of 2013 and the second respondent has also entered appearance and filed a counter affidavit. The second respondent has not made any averments for dowry harassment as against her husband and other in-laws in the said counter affidavit filed in the year 2015. Thereafter, she filed a petition for restitution of conjugal rights in the year 2015 and in that petition only the second respondent has made certain allegations that too in vague manner as if all the accused have demanded dowry. This complaint was filed under Section 156(3) CrPC before the learned Judicial Magistrate, Sivakasi and a case was registered on 01.03.2016. In this complaint only there is a reference that there was a demand of dowry by her husband on 08.02.2012 and the other accused have instigated accused No.1 and the seventh accused demanded dowry on 10.03.2012. These two dates are inserted in the complaint. Subsequently, in the 161(3) CrPC statement that it has been recorded in the year 2017 certain details were stated as if, there was a demand of dowry by these accused on various dates. No doubt it is settled position of law that the first information report is not an encyclopedia, where every minute details are expected to be mentioned. But this is a case where, the first accused and the second respondent are living separately from the year 2013 and the first accused also filed a petition in the year 2013 and thereafter, this complaint was filed in the year 2015 by way of a private complaint under Section 156(3) CrPC and even in the complaint there is no specific allegation as against this petitioner.

13.In view of the above, the proceedings in C.C.No.267 of 2017 on the file of the Judicial Magistrate, Sivakasi as against this petitioner is hereby quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed

Sd/-

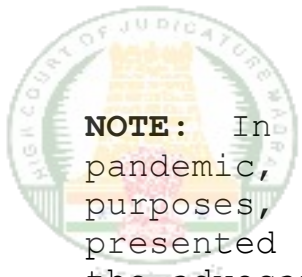
Assistant Registrar (P&A)

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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.

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To

1.The Judicial Magistrate,  
Sivakasi.

2.The Inspector of Police,  
All Women Police Station,  
Sivakasi,  
Virudhunagar District.

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

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate ( SR-39131[F] dated 16/12/2021 )

**CrI.O.P(MD)No.15838 of 2017**  
**16.12.2021**

RK(31/12/2021) 6P 5C