



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)No.17491 of 2017

and

Cr.M.P(MD)Nos.11481 and 11482 of 2017

(Through video Conference)

- 1.C.Rajagopal
- 2.Janaki
- 3.C.Murugan
- 4.Indirani
- 5.C.SenthilKumar
- 6.M.Arish
- 7.Dhanapal
- 8.Senthil Latha
- 9.Subaja

.. Petitioners / Accused 1 to 9
Vs.

- 1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

.. Respondent/Complainant

- 2.A.Dhanaraj,
The Assistant Director,
Crime Department,
No.3, Venkateswara Street,
Dhanalakshmi Colony,
Vadapalani,
Chennai-600 026.

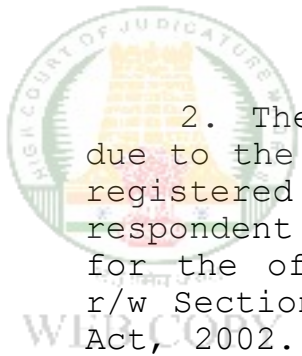
... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in C.C.No.209 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and quash the same.

For Petitioners	: Mr.C.K.M.Appaji
For R1	: Mr.A.Thiruvadi Kumar
	Additional Public Prosecutor
For R2	: Mr.M.Saravanan

O R D E R

This petition is filed to quash the C.C.No.209 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, on the ground that the defacto complainant, who is a third party has given a complaint against the petitioners herein as if his daughter was subjected to matrimonial cruelty, abuse and intimidation.



2. The learned counsel for the petitioners would submit that due to the defacto complainant's pressure, the respondent police has registered the complaint. After completed the investigation, the respondent police filed final report against the petitioners herein for the offence punishable under Sections 294(b), 147, 506(i) IPC r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. Since there is variation in the complaint and the final report which exposed the falsehood in the complaint, the case against the petitioners in C.C.No.209 of 2017 has to be quashed.

3. Further, the learned counsel for the petitioners would submit that the daughter of the defacto complainant was married to one Rajagopal on 03.09.2021 and this marriage is the second marriage for her. Suppressing the earlier marriage, the second marriage was arranged by the defacto complainant and further more, the defacto complainant's daughter gave birth to a child within 7 months 28 days from the date of marriage when there was no conjugal relationship between the husband and wife. Therefore, a divorce petition was filed. To torpedo the said petition, a bald complaint was given by the defacto complainant, which was taken for investigation and equally bald final report filed against the petitioners herein.

4. This Court, on reading the complaint of the FIR along with 164 statements of the witnesses does not find that the final report is a bald report without any basis. There is a *prima facie* case made out to prosecute the petitioners for offence under Sections 294(b), 147 and 506(i) IPC r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

5. Initiation of divorce proceedings cannot be a ground to quash the criminal prosecution. Further, the plea of the learned counsel for the petitioners that the content of the FIR and the final report material varies also found not correct. In fact, the investigation officer has investigated the case and only based on the material evidence, has filed the final report for a lesser offence.

6. In the result, this Criminal Original Petition to quash the C.C.No.209 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, is dismissed as devoid of merits. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

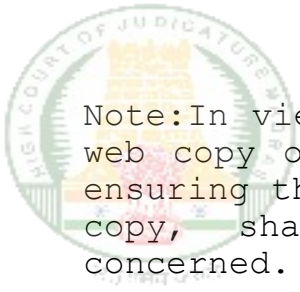
// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

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



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.

WEB COPY

To

1. The Judicial Magistrate No.I,
Kuzhithurai.
2. The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.SARAVANAN, Advocate (SR-38196[F] dated 10/12/2021)

Crl.O.P. (MD)No.17491 of 2017
10.12.2021

SS (CO)
GC (04.01.2022) 3P 5C