



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 01.03.2021

DATE ON WHICH PRONOUNCED : 01.04.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.4626 of 2017

and

Crl MP(MD)No.3287 of 2017

G.Jansi Rani

... Petitioner/Accused No. 2

Vs.

1.P.Arputhamery

... 1st Respondent/Defacto
Complainant

2.The State represented by
The Inspector of Police,
All Women Police Station,
Cantonment,
Trichy District.

... 2nd Respondent/Complainant

Prayer:Criminal Original Petition is filed under Section 482 Criminal procedure code, to call for the records in C.C.No.13 of 2016 on the file of the learned Additional Mahila Court, Trichy, which is filed against the petitioner and quash the same as illegal against the petitioner.

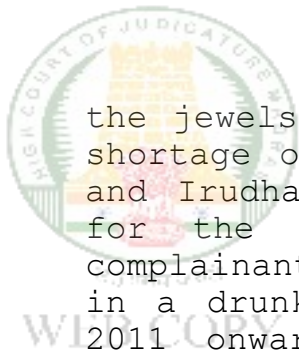
For Petitioner	:	Mr.M.Siddharthan
For R2	:	Mr.M.Ganesan, Government Advocate (Crl.Side)
For R1	:	No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.13 of 2016 on the file of the learned Additional Mahila Court, Trichy.

2.The case of the first respondent before the Trial Court:-

i) The first respondent was married to one Paneerselvam, who was arrayed as first accused before the Trial Court on 05.09.2005 as per the Christian rites and customs. At that time, the defacto complainant was given 30 sovereigns of gold jewels and Rs.2.5 lakhs cash. The first accused was also given 5 sovereigns gold jewels. In pursuance of the marriage, they begot male and female children. They lived happily for some time. The first accused constructed a house in Adaikala Nagar and at that time, he pledged



the jewels, belonging to the defacto complainant, When there was a shortage of money, the third and fourth accused namely, Arulsamy and Irudhayamari demanded Rs.5 lakhs from the defacto complainant for the purpose of completing the construction. The defacto complainant gave the said amount. Even after that, the first accused in a drunken mood used to ill-treat the defacto complainant from 2011 onwards. The first accused had illicit intimacy with the petitioner herein and harassed the defacto complainant. The illicit intimacy was also known to the accused Nos.3 to 8. But, the first accused compelled the defacto complainant to approve his affairs with the petitioner.

ii) On 26.06.2016, at about 07.00 p.m, the first accused, went to the house of the second accused and they were caught red handed by the defacto complainant. From that, the first accused compelled the defacto complainant to permit the second accused/petitioner herein to stay in their house and also assaulted her. The petitioner herein also assaulted the defacto complainant and also asked the first accused to kill the defacto complainant, so that, they can live together. Subsequent to this occurrence also, the first accused ill-treated the defacto complainant and demanded her consent to continue his illicit intimacy with the petitioner herein. This was instigated by the accused Nos.3 to 5 also. Fearing her life, the defacto complainant went to her parental home. Later, they compromised and started living jointly from 2013.

iii) Even after that, the first accused took the jewels of the defacto complainant and gave the same to the petitioner. It is further alleged that the ninth accused, who is the husband of the petitioner herein, threatened the defacto complainant stating that they will kill the first accused.

iv) On the basis of the complaint given by the defacto complainant, the first respondent took up the investigation, collected materials, recorded the statements of the witnesses and finally filed a final report stating that all the accused have committed the offences punishable under Sections 498(A), 406, 294 (b), 506(ii) r/w 109 IPC.

3. Seeking quashment of this final report, the petitioner, who is the second accused before the Trial Court filed this petition mainly on the ground that she is not a relative as defined under Section 498 (A) IPC to the first accused and so, no such offence, can be alleged against her. She is the wife of the ninth accused and because of this criminal case, her peaceful life has been spoiled.

4. The learned counsel for the petitioner would rely upon the judgment of the Hon'ble Supreme Court reported in **Suvetha Vs. State by Inspector of Police and Another 2009 6 SCC 757** for the purpose of argument that Section 498(A) IPC cannot be invoked against a person, who is not a relative either to the husband. The question before the Hon'ble Supreme Court is whether the term relative mentioned under Section 498(A) IPC will include a girl friend or concubine of the husband. After going through the various authorities, the Hon'ble



Supreme Court came to the finding that such a larger interpretation to include the concubine or girl friend cannot be given to the word 'relative'. Paragraph 18 of the said judgment reads as under:-

"By no stretch of imagination would a girlfriend or even a concubine in an etymological sense be a 'relative'. The word 'relative' brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise."

5. So, the question, which arises for consideration, is whether the offence under Section 498(A) IPC will be attracted against this petitioner as decided by the Hon'ble Supreme Court. In the light of the allegations, the petitioner will not come under the category of relative to the first accused, namely, the husband of the second respondent herein. But, at the same time, specific allegations have been made against this petitioner in the complaint and statements of witnesses that have been recorded by the Investigating Officer about the alleged involvement of this petitioner in respect of the other offences under Sections 294(b), 323, 506(ii) r/w 109 IPC and Section 406 IPC. There is specific allegation to the effect that the defacto complainant was assaulted by this petitioner, also criminally intimidated and her jewels were given to this petitioner by the first accused in the course of the same transaction alleged to have taken place.

6. It is also seen that as per the report submitted by the learned Additional Mahila Judge, Trichy, five witnesses were examined so far in this case and due to the interim stay granted by this Court, further examination of the witnesses was not undertaken.

7. So, in such circumstances, I find that no strong case has been made out by this petitioner to quash the final report filed against her, in respect of the other offences. The Trial Court may take into account the judgment of the Hon'ble Supreme Court in **SSuvetha Vs. State by Inspector of Police and Another** (cite supra).

8. So, in the light of the above discussion, I am of the considered view that Section 498 (A) IPC will not be attracted. But, it may not be proper to quash the charge sheet in part, in respect of the offences against this petitioner. The Trial Court may take into account this observation, while deciding the case.



9. With the above observation, this petition is dismissed. The Trial Court is directed to dispose of the case on merits at the earliest. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

// 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.

To

1.The Additional Mahila Court,
Trichy,

2.The The Inspector of Police,
All Women Police Station,
Cantonment,
Trichy District.

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

+1 CC to M/s.M.SIDDHARTHAN, Advocate (SR-15430[F] dated
07/04/2021)

Crl.O.P. (MD)No.4626 of 2017
and

Cr1 MP (MD)No.3287 of 2017
01.04.2021

MA(07.05.2021) 4P 5C