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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved On : 03.12.2021

Orders Delivered On : 14.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P(MD)Nos.5545 of 2017

and

Crl.M.P(MD)Nos.3967 & 3968 of 2017

and

Crl.O.P(MD)No.10072 of 2017

Crl.M.P(MD)No.6878 & 6879 of 2017

and

Crl.M.P(MD)Nos.140 & 224 of 2021

Crl.O.P(MD)No.10072 of 2017

1.Sujatha
2.Rajasekar
3.P.Natarajan

... Petitioners/Accused Nos.2,3 & 6

Vs.

1.The State rep. by the
Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
(In Crime No.1 of 2016).

... 1st Respondent/Complainant

2.Saranya

... 2nd Respondent/
Defacto Complainant

PRAYER: The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Charge Sheet in C.C.No.187 of 2016 on the file of the Judicial Magistrate Court, Paramakudi and quash the same as illegal.

Crl.O.P(MD)No.5545 of 2017

Malavika

... Petitioner/Accused No.4

Vs.

1.The State rep. by the
Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
(In Crime No.1 of 2016)

... Respondent No.1/Complainant

2.Saranya

... Respondent No.2/
Defacto Complainant



PRAYER: The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Charge Sheet in C.C.No.187 of 2016 on the file of the Judicial Magistrate Court, Paramakudi and quash the same as illegal.

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For Petitioners	: Mr.M.Ajmal Khan
in Both Crl.O.Ps.	Senior Counsel for M/s.Ajmal Associates
For R1	: Mr.A.Thiruvadikumar
in Both Crl.O.Ps.	Additional Public Prosecutor
For R2	: Mr.Ramsundar Vijayaraj
in Both Crl.O.Ps.,	for M/s.Veera Associates

COMMON ORDER

Based on the complaint by one Saranya the second respondent against her husband and five of his family members, the first respondent police has registered a case under Sections 498(A) IPC and Section 4 of Dowry Prohibition Act r/w 498(A), 323 IPC and Section 4 of Dowry Prohibition Act in Cr.No.1 of 2016 and after investigation, filed final report on 20.10.2016 before the learned Judicial Magistrate, Paramakudi.

2.Accused Nos.2, 3 & 6, who are the sister, sister's husband and brother of the de-facto complainant's husband are the petitioners in Crl.O.P(MD)No.10072 of 2016 to quash the proceedings. The minor daughter of her husband's sister is the petitioner in Crl.O.P(MD)No.5545 of 2017.

3. The learned counsel for the petitioners referring the 161 Cr.P.C. statements of the witnesses, submitted that there is no case made out against these petitioners, particularly, against A2, A3 and A4, who are the sister, sister's husband and sister's daughter of the de-facto complainant's husband. They are living separately at Trichy and the de-facto complainant and her husband were living in Paramakudi. Further, the learned counsel submitted that the 6th respondent, who is the brother of the de-facto complainant's husband employed in Dubai, therefore, there was no evidence to substantiate the complaint that they all formed together along with her husband and her mother-in-law to harass her and demand dowry. Therefore, relying on the judgment of the Hon'ble Supreme Court rendered in **Preeti Gupta and another Vs. State of Jharkhand and another** reported in **2010 (7) SCC 667**, contended that, allegations against husband's close relations living in different cities and never visited or rarely visited the place where the complainant/wife reside, requires close scrutiny with great care and circumspection. Whereas, in this case, the 3rd accused a reputed Doctor in Trichy living with his wife and minor daughter peacefully far away from complainant, has been



wrongly implicated for simple reason he is the husband of the de-facto complainant's sister-in-law. Likewise, the 6th accused working in Dubai also implicated, because he happens to be the brother of the de-facto complainant's husband.

4. Per contra, the learned counsel for the second respondent submitted that, the recorded conversations of the accused demanding dowry and photographs of the injuries on the complainant are clinching evidence for dowry torture. The father-in-law of the 6th accused had given statement incriminating the 6th accused/the third petitioner in Crl.O.P(MD)No.10072 of 2017. As far as the petitioner in Crl.O.P(MD)No.5545 of 2017 (A4) is concerned, the learned counsel for the second respondent submitted that, for her Medical College expenses, the jewels and money of the de-complainant was used and the parents of the 4th accused, who are the sister and brother-in-law of the de-facto complainant were instrumental for causing harassment.

5. From the perusal of the FIR and statements accompanying the final report, this Court finds no material evidence incriminating the first and second petitioners in Crl.O.P(MD)No.10072 of 2017 who are the sister and brother-in-law of the de-complainant. Likewise, the content of the FIR and the statements about A4 minor girl also appears fanciful and illusionary.

6. As far as the 3rd petitioner in Crl.O.P(MD)No.10072 of 2017, the brother of the de-facto complainant's husband is concerned, this Court find some *prima facie* evidence incriminating, hence, he is bound to face the trial.

7. In the result, the proceedings in C.C.No.187 of 2016 on the file of the learned Judicial Magistrate, Paramakudi, is quashed in respect of A2-Sujatha A-3 Rajasekar and A-4 Malavika.

8. Accordingly, Crl.O.P(MD)No.10072 of 2016 is partly allowed and Crl.O.P(MD)No.5545 of 2017 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate,
Paramakudi.

2.The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.

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

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-38737[F]dated
15/12/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-38916[F]dated
15/12/2021)

Crl.O.P(MD)Nos.5545 of 2017
and
Crl.O.P(MD)No.10072 of 2017
14.12.2021

NSN(CO)

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