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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 01.04.2021

Delivered On : 21.05.2021

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.7328 of 2017

and

Crl.M.P.(MD)No.4995 of 2017

1. M.Keynes Arockiaraj,

2. Andoli Prabavathi,

3. Jacqline,

4. Louis,

5. Mary Silviya

... Petitioners/Accused 1to5

Vs.

1.The Inspector of Police,
All Women Police Station,
Dindigul.

...1stRespndent/Complainant

2.S.Kulandai Theres,

...2ndRespondents/Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.329 of 2015 dated 20.03.2015 on the file of the Judicial Magistrate No.II, Dindigul District and to quash the same.

For Petitioners : Mr.M.S.Sureshkumar

For R1 : Mr.M.Ganesan,
Government Advocate (crl.side)

For R2 : Mr.C.Christopher

ORDER

This Criminal Original Petition is filed seeking for quashment of charge sheet in C.C.No.329 of 2015, pending on the file of the Judicial Magistrate No.II, Dindigul.



2.The petitioners herein are the accused and the second respondent herein is the defacto complainant.

3.The case of the prosecution before the trial court is that the second respondent herein, who is the wife of the first petitioner herein, had lodged a complaint before the first respondent police making the following allegations:-

3.1.The marriage between the second respondent herein / defacto complainant and the first petitioner/ A1 took place on 18.08.2013 and at that time, she was given 30 sovereigns of gold jewels, household articles, etc., and they lived in a joint family for few days and thereafter, the fifth accused, who is the sister of the first accused, visited the family and A3 and A4, who are the aunt and uncle of the first accused, also visited the family and pressurised her to transfer the property stood in her mother's name to the first accused.

3.2.The first accused was also having contact with the sister of the defacto complainant and he has also made un-necessary comments and abused her in filthy language. The second accused, who is the mother-in-law of the defacto complainant, pressurised her to give the household articles, without giving proper food and also directed to abort the child. When the mother of the defacto complainant came to Chennai, both of them were driven out from his house. They also pressurised them to make a declaration that they have received all the jewels and articles. Thereafter, on 04.1.2014, the first accused requested the defacto complainant to come and live with him in Chennai or he will marry another women. Later, the first and second accused, harassed her and A1 removed the Thali and she was sent out of the house. Again, on 05.06.2014, she came to Chennai and at that time, the accused 2 to 5 directed her to clean the house and made all tactics to separate her from the first accused. The first accused pulled her with her hair and harassed her in the middle of the street and also demanded Rs.12,000/- (Rupees Twelve Thousand only) for giving advance to arrange a separate house. After receiving the amount, she was sent to her mother's house. Thereafter, the first and fourth accused came to Dindigul and demanded transfer of the house property and also abused her in filthy language. In the mean time, on 17.10.2014, the accused Nos.2 to 5 directed her to do all the house work or else she will be sent out from the house.

3.3.With these allegations, she made a complaint before the first respondent police through C.M.- Cell and the same was registered in Crime No.8 of 2015, on 29.03.2015, under Section 498 (A) I.P.C. and under Section 4 of Dowry Prohibition Act and under Section 4 of Tamil Nadu Protection of Harassment of Women Act. Investigation was undertaken and based upon the investigation, the charge sheet under Sections 294(b), 498(A) I.P.C. and under Section 4 of Dowry Prohibition Act and under Section 4 of Tamil Nadu Protection of Harassment of Women Act, was filed.



4. Seeking quashment of the final report all the accused persons have preferred this Criminal Original Petition.

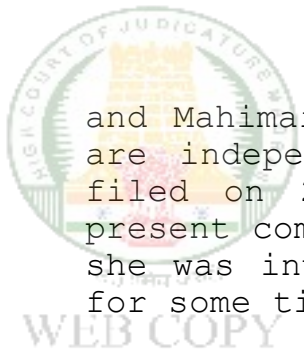
5. Heard both sides.

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6. The relationship between the parties has not been denied. The first petitioner/ A1 is the husband, the second petitioner/A2 is the mother in-law and the third and fifth petitioners/A3 and A5 are the sister-in-law of the defacto complainant. The fourth petitioner/A4 is the husband of the third petitioner.

7. The marriage is not denied. From the narration of the events, mentioned in the complaint and as well as the final report, it is seen that there was a persistent demand from the mother-in-law and the deceased father-in-law, for transferring the property, which stand in the name of the defacto complainant's mother, in the name of the first petitioner/A1 and because of that, dispute arose between them and further, she was harassed demanding more dowry and amounts.

8. But a perusal of the documents and as well as the hearing of the learned counsel for the petitioners, it is seen that some thing went wrong during the course of investigation. The reason being that originally the complaint given by the second respondent / defacto complainant was registered in C.S.R.No.359 of 2013 of Madhavaram Women Police Station, Puzhal, Chennai. During the course of enquiry, it was closed since the second respondent/ defacto complainant was not willing to live in a joint family and demanded jewels back, but, citing the health conditions of his father, he refused. So, the second respondent / defacto complainant requested the first petitioner, so, that they may resolve the family dispute, is also unable to return the jewels on 14.11.2013, on the same day, the second petitioner herein, who is the mother-in-law of the defacto complainant, has also given a statement stating that they will return the jewel belonging to the second respondent, on 14.11.2013. Only the second respondent was not willing to live with the first petitioner, the second respondent has also given a statement to the effect that due to difference of opinion between them, her mother was abused by the petitioners and so, the first petitioner/A1 assaulted her and she is not willing to live with the first petitioner and she received jewels on her on 14.11.2013 and will resolve the dispute before the family Court. She has also stated that she took the Thali, Ring, Thodu with Kammal and Jimikki and on 15.11.2013, there was a compromise between the parties, by which, the second respondent expressed her willingness to go to the parental home and hence, she received the jewels, educational documents from the first petitioner in the presence of the witnesses, namely, Mariaselvi, Vallarasan, Mahimairaj and Prabhavathy. The said Prabhavathy is the second petitioner herein



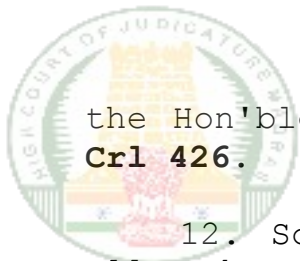
and Mahimairaj is the deceased father-in-law and two other persons are independent witnesses. Later, the present F.I.R came to be filed on 29.03.2015, which is after the gap of two years, the present complaint has been given. At that time, she has stated that she was invited by the first petitioner to Chennai and lived there for some time and later also the harassment continued.

9. When the complaint was under enquiry, these petitioners filed Crl.O.P.(MD)No.5857 of 2015, seeking anticipatory bail, during the time, it was submitted by the first respondent that enquiry is still pending and the matter was adjourned. The fifth accused filed Crl.O.P.(MD)No.6861 of 2015, seeking anticipatory bail, at that time, it was submitted that the case was transferred to file of the All Women Police Station, Madhavaram, Puzhal, Chennai, on the point of jurisdiction. But, later, the case was investigated by the first respondent and filed the final report. How the mistake took place is not clear on record, even the present investigation officer while filing the status report has stated that further particulars are not available on record regarding the transfer.

10. More over, when the earlier complaint was closed on the basis of compromise reached between the parties, the second complaint has been registered. Even during the course of investigation, the first respondent was not in a position to find out or enquire about the earlier complaint and a compromise reached between the parties. Even during 164 statement, the second respondent has stated about the compromise that was reached in between them, during the year 2013.

11. So, according to her, as I mentioned earlier, she was harassed by the first petitioner only when she went to Chennai. Later, the first petitioner filed I.D.O.P.No.108 of 2015, seeking divorce. The order is dated 25.09.2015, but, the second respondent has not appeared before the Court and she was set ex-parte. The reason for the second respondent remained ex-parte before the Principal District Judge, Tiruvallur is not explained, even during the course of arguments. Subsequent to the order passed in the above said I.D.O.P., the first petitioner appears to have married another women on 18.01.2016. So, during this period only, the complaint has been given, so, the sequence of events, clearly shows that the allegations made by the second respondent that subsequent to compromise, she was harassed by the first petitioner joined by others and during the time, the harassment continued, is highly improbable. It is seen that with ulterior motive, the present complaint has been given stating that subsequent to the compromise in the year 2013, the harassment continued. So, I am of the considered view that this is nothing but an abuse of process of the Court and as well as the law. So, as rightly pointed out by the learned counsel for the petitioners, this Court is clear that this is a case of inherently improbable. As per one of the grounds for

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



the Hon'ble Supreme Court in **State of Haryana Vs Bajanlal 1992 SCC Crl 426.**

12. So, the petition is liable to be allowed and accordingly allowed. The charge sheet in C.C.No.329 of 2015, pending on the file of the Judicial Magistrate No.II, Dindigul, stands quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /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.

Ls
To

- 1.The Judicial Magistrate No.II,
Dindigul.
- 2.The Inspector of Police,
All Women Police Station,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
Crl.O.P. (MD)No.7328 of 2017

21.05.2021

GS (7.06.2021) 5P 4C