



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.12.2021

Delivered on : 22.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD)No.8465 of 2017

and

Crl.M.P.(MD)No.5721 of 2017

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1.Natchiappan, S/o.Shanmugam Chettiar

2.Meenal, W/o.Natchiappan ... Petitioners / A2 and A3

-vs-

1.State through

The Inspector of Police,
All Women Police Station,
Thilagarthidal,
Madurai District.

[Crime No.22 of 2016]

... 1st Respondent / Complainant

2.Kannathal, W/o.Vijayakumar

... 2nd Respondent / Defacto
complainant

Prayer:- Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings in C.C.No.76 of 2017, on the file of the Additional Mahila Court, Madurai and quash the same.

For Petitioners : Mr.R.Anand

for Mr.S.I.Muthiah

For Respondent : Mr.S.Thiruvadikumar

No.1 Additional Public Prosecutor

For Respondent : No Appearance

No.2

ORDER

This Petition is filed under Section 482 of Cr.P.C., to quash the proceedings in C.C.No.76 of 2017, on the file of the Additional Mahila Court, Madurai.

2.The petitioners herein are arrayed as A2 and A3 alleged to have committed the offences punishable under Sections 498-A, 294 (b), 506(i), 406 and 417 of I.P.C., based on the complaint given by the second respondent - Kannathal, who is none other than the daughter-in-law.

3.The background facts of the case:-



Vijayakumar, who is the son of the petitioners herein, married Kannathal, the second respondent herein on 11.12.2005. After the marriage, Vijayakumar and Kannathal went to U.S.A. and live together till 2012. During their wedlock, Kannathal gave birth to two children. Thereafter, Kannathal left her husband and came to India along with the children and stayed back. Alleging harassment and other matrimonial offences, she gave a complaint to the All Women Police Station in Crime No.4 of 2014 against these petitioners, their son Vijayakumar as well as her own parents. When the investigation was underway, Kannathal withdrew the complaint as not pressed and thereafter, come out with the fresh complaint with modified set of facts as against the petitioners and their son alone.

4. Contending that the second complaint, which is now being taken on file as C.C.No.76 of 2017, has been filed with *mala fide* intention to harass the petitioners and their son and abuse of process of law, the learned counsel for the petitioners stated that the second complaint was given to defeat the right of the petitioners to claim the custody of their minor grandchildren, which they are pursuing in G.W.O.P.No.20 of 2015, on the file of the Family Court, Madurai. It is specifically contended that the second respondent herein came down to India along with her children deserting her husband living in U.S.A. to continue her illicit affair. She developed intimacy with one Suresh, a car driver working under her father. That was questioned by her parents as well as the petitioners, then she started making bald allegations against everybody and gave complaint to the Social Welfare Officer alleging domestic violence. The Social Welfare Officer enquired the matter and filed a report on 11.03.2013 disclosing that the second respondent has married Suresh, driver by profession. She is living with him along with two children in a rented house at Madurai. Therefore, the complaint was closed. Thereafter, she did not appear before the Court. Hence, her petition in Cr.M.P.No.366 of 2013 was dismissed by the learned Judicial Magistrate No.IV, Madurai, on 20.08.2013, after perusal of the Social Welfare Officer's report. The statement of witnesses recorded in Crime No.4 of 2014 and the loan application form of the second respondent to the Tamilnad Mercantile Bank, disclosing the said Suresh as her husband though her marriage with Vijayakumar was not legally dissolved, falsified her complaint registered in Crime No.4 of 2014. The second respondent herself stating some reason, withdrew the complaint in Crime No.4 of 2014 as not pressed, only to file the present fresh complaint dated 10.11.2016, with distorted facts after receipt of the notice in G.W.O.P.No.20 of 2015. Therefore, C.C.No.76 of 2017 has to be quashed.

5. The grounds raised in the quash petition are,



(i) There is no basic ingredient made out to prosecute these two petitioners.

(ii) It is a belated afterthought complaint, which has been initiated after institution of G.W.O.P. and criminal case against her and her paramour, which was taken on file as S.C.No.364 of 2016.

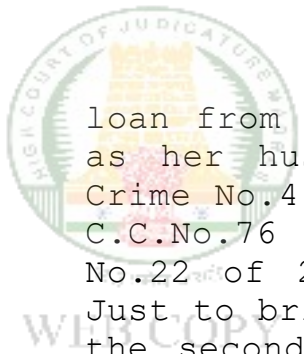
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6.This Court on perusing the records to ascertain for what reason the second respondent withdrew her earlier complaint in Crime No.4 of 2014 and has filed the present complaint deleting her parents by tinkering her earlier version, called for the records pertaining to Crime No.4 of 2014.

7.The learned Additional Public Prosecutor produced the records pertaining to Crime No.4 of 2014. On perusal of the records in Crime No.4 of 2014 and the documents relied in Crime No.22 of 2016, this Court finds that the de-facto complaint contrary to her earlier complaint in Crime No.4 of 2014, which she has withdrawn voluntarily, had given this complaint with embellished set of facts in order to give up her complaint against her parents, against whom, she has earlier alleged harassment and ill-treatment. Realizing that her earlier complaint will not sustain, since the evidence collected during investigation, had disclosed her falsehood and illicit relationship with one Suresh, she has cleverly withdrawn that complaint and had filed a new complaint after lapse of two years. This subsequent complaint appears to be a counter check to a criminal complaint in S.C.No.364 of 2016, filed against her and the said Suresh and also to torpedo G.W.O.P.No.20 of 2015 filed by the first petitioner herein seeking custody of the grandchildren from the second respondent.

8.Now, it is brought to the notice of this Court by the learned counsel for the petitioners that G.W.O.P.No.20 of 2015, filed by the first petitioner herein seeking custody of the minor children, came to be dismissed on 02.03.2021 by the Family Court, Madurai, on the ground that the children had been with the mother all along and not willing to go with the grandparents. The father of the minor children had not shown any interest to take custody of the children, the mother shall continue to have the custody of the children. Since the grandparents cannot be appointed as guardian, when the natural guardian is no way disqualified.

9.This Court taking note of the fact that the father of the de-facto complainant had already taken back all the jewels given to his daughter and given a Receipt to that effect and he himself has also filed case against the said Suresh and his family members for abducting her daughter and grandchildren, that apart the declaration form signed by the de-facto complainant for availing



loan from the Tamilnad Mercantile Bank, declaring the said Suresh as her husband and her withdrawal of the earlier complaint in Crime No.4 of 2014 cumulatively indicates that the present case in C.C.No.76 of 2017 is direct resultant to the complaint in Crime No.22 of 2016 and it is nothing, but abuse of process of law. Just to bring down the petitioners herein to the terms dictated by the second respondent herein, the criminal complaint without any *prima facie* case filed. Process of law is abused by the second respondent and it is a fit case to be quashed exercising power under Section 482 of Cr.P.C. Accordingly, the proceedings in C.C.No.76 of 2017 pending against the petitioners, on the file of the Additional Mahila Court, Madurai, shall stand quashed and this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

smn2

To

- 1.The Judge,
Additional Mahila Court, Madurai.
- 2.The Inspector of Police,
All Women Police Station,
Thilagarthidal,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:-

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.I.MUTHIAH, Advocate (SR-40075[F] dated 22/12/2021)

Cr1.O.P. (MD)No.8465 of 2017
22.12.2021

PS(CO)

SB(10.01.2022) 5P 7C

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