



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Cr1.OP(MD)No.9983 of 2017
and Cr1.MP(MD)No.6821 of 2017

1.S.Karthikeyan

2.S.Balamurugan

3.S.Kathiresan :Petitioners/Acussed Nos. 1,4 & 5

Vs.

1.The State Rep. by
Inspector of Police,
All Women Police Station,
Theni, Theni District.
Cr.No.51 of 2011 ...1st Respondent/Complainant

2.K.Latha Santhi ...2nd Respondent/ Defacto Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records in C.C.No.25 of 2014 on the file of the Judicial Magistrate, Theni and quash the same.

For Petitioners : Mr.M.Siddharthan

For Respondents : Mr.S.Ravi,
Standing Counsel for the State
for R.1

Mr.B.Jeyakumar for R.2

ORDER

The petitioners, who are accused nos.1, 4 & 5 in C.C.No.25 of 2014 on the file of the learned Judicial Magistrate, Theni, have filed this petition to quash the proceedings pending against them.

2. According to the the second respondent / defacto complainant, the marriage between her and the first petitioner was solemnized on 01.09.2008 and at the time of marriage, 97 Sovereigns of jewels were given as Sreethana, apart from 7 Sovereigns of jewels to the first petitioner and Rs.5 Lakh in cash. After the marriage, they lived as a joint family along with the other accused. The first

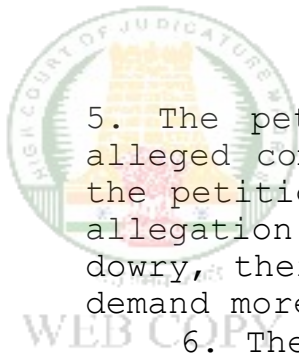


petitioner and his brothers have demanded more dowry and have also collected 57 Sovereigns of jewels in addition to the Sreethana and also demanded a sum of Rs.20 Lakh for purchasing a house property. The first petitioner thereafter demanded a sum of Rs.10 Lakh for commencing a business. Since the second respondent has not met their illegal demands, she was driven out of the matrimonial home and therefore, she lodged a complaint before the first respondent Police, which was registered in Crime No.51 of 2011, for the offence under Sections 498A, 406, 506(i) IPC and Section 4 of Dowry Prohibition Act. Thereafter, the first petitioner appears to have agreed to live separately with the second respondent by arranging a separate house at Perambalur. On his promise, the second respondent appears to have withdrew her complaint. But the first petitioner refused to live separately with the second respondent and therefore, once again, the second respondent filed a protest petition before the learned Judicial Magistrate, Theni, in Crime No.51 of 2011 and thereafter, the witnesses were examined and a final report has been filed as follows:

Offence	Accused
u/s 498A, 406, 506(i) IPC, u/s 4 of Dowry Prohibition Act, u/s 4 of Tamil Nadu Prohibition of Women Harassment Act	A1 (1 st petitioner), A2
u/s 498A, 406, 506(i) IPC, u/s 4 of Dowry Prohibition Act	A3
u/s 498A, 506(i) IPC, u/s 4 of Tamil Nadu Prohibition of Women Harassment Act	A4, A5 (petitioners 2 & 3)

3. The first petitioner / 1st accused is the husband of the second respondent / defacto complainant. The petitioners 2 & 3 are the brothers of the first petitioner, who are arrayed as accused nos.4 & 5 in C.C.No.25 of 2014. The prosecution was made as against the parents of the first petitioner also, who are arrayed as accused nos.2 & 3, however, they died. Therefore, the accused nos.1, 4 & 5 are before this Court.

4. The petitioners 2 & 3 are the in-laws. Perusal of the papers would show that there is a vague allegation that the petitioners 2 & 3 have insisted the first petitioner to get some more dowry from the second respondent. Excepting this vague statement, that too, without any specific dates and materials, there is no allegation as against them. On the other hand, there are specific allegations as against the first petitioner / husband, which can be tested only during the trial.



5. The petitioners 2 & 3 are not having any active role in the alleged commission of offence and there is no overt act as against the petitioners 2 & 3. That apart, when there is already a specific allegation as against the first petitioner that he has demanded more dowry, there is no necessity for another person to instigate him to demand more dowry.

6. The Hon'ble Supreme Court, in the case of **Bhaskar Chattoraj v. State of West Bengal**, reported in **1991 SCC (Cri) 1077**, has held as follows:

"3. ... We carefully and meticulously went through the entire reports as well as the statements of the witnesses recorded under Section 161 of the Criminal Procedure Code during the course of the investigation and on perusal of the records, we are satisfied that there is no material connecting the appellant with the alleged offence of criminal trespass. The learned counsel appearing on behalf of the respondent is not able to satisfy us showing any material that would justify the implication of the appellant with the offence for which he now stands charged. In our considered opinion, no conviction can be recorded on the mere vague allegations, that too made only in the petition dated November 15, 1985 and as such the entire proceedings as against this appellant is only an abuse of the process of the court. In view of the above circumstances, we quash the charge framed as against this appellant under Section 448 IPC. Before parting with the judgment, we make it clear that we are not expressing any opinion on the merits of the case of the other accused and the court trying the case shall not be influenced by any of the observations made in this judgment or by this order quashing of the charge under Section 448 IPC in respect of this appellant. In the result, we set aside the impugned order of the High Court and quash the entire proceedings as against this appellant."

7. In view of the aforesaid decision of the Hon'ble Supreme Court and the foregoing discussions, this Court is inclined to quash the charge sheet insofar as the petitioners 2 & 3 are concerned. Accordingly, the charge sheet pending against the petitioners 2 & 3 / accused nos. 4 & 5 alone is quashed. Insofar as the first petitioner / first accused is concerned, the trial Court is to proceed with the trial and decide the matter, as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order. It is made clear that the trial Court shall decide the matter as against the first petitioner, uninfluenced by any of the observations rendered by this Court in this petition.



8. In the result, this criminal original petition stands partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate,
Theni.

2.The Inspector of Police,
All Women Police Station,
Theni,
Theni District.

3.The Additional Public prosecutor,
Madurai Bench of Madras High court,
Madurai.

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MGJ(16.07.2021) 4P 4C