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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

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THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

CRL.O.P.No.22470 of 2015

1.Chinnammal
2.Ramasamy
3.Selvamani
4.Ananthi

... Petitioners

Vs.

1.The State represented by the
Inspector of Police
All Women Police Station
Perambalur
Perambalur District
(Crime No.10 of 2014)

2.Ambika
(Impleaded as per the order of this Court
dated 16.10.2015 in M.P.No.3 of 2015 in
Crl.O.P.No.22470 of 2015)

...Respondents

Prayer :- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.361 of 2014, on the file of the learned Judicial Magistrate, Perambalur, Perambalur District and quash the same.

For Petitioners: Mr.S.Kamadevan

For Respondents: Mr.R.Murthi

Government Advocate (Crl.Side) for R1.
Mr.R.Sethuvarayar for R2.

ORDER

This petition is filed to call for the records in C.C.No.361 of 2014, on the file of the learned Judicial Magistrate/Civil Judge (Junior Division), Perambalur, Perambalur District and quash the same.

2.The de-facto complainant/second respondent gave a complaint under Section 156 (3) of the Criminal Procedure Code before the learned Judicial Magistrate, Perambalur and that was

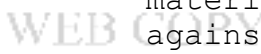


forwarded to the first respondent. The first respondent registered a case in Perambalur Police station in Crime No.361 of 2014 for the offences under Sections 406, 498 (A) and 506 (i) of I.P.C. The allegations made in the complaint, in brief, are that,

The marriage between the first accused Kalairaj and the second respondent had taken place on 09.02.2012. At the time of marriage, she was provided with 4 sovereign of gold necklace, 1 $\frac{3}{4}$ sovereign of ear stud, $\frac{3}{4}$ sovereign of ring, 3 sovereign gold chain. First accused Kalairaj was provided with 1 sovereign of gold ring and CBZ Hero Honda motor cycle. The house hold articles worth Rs.1,40,000/- were also provided as seer. CBZ Hero Honda motor cycle was purchased at the insistence of the first accused. One week after marriage, the accused weighed the jeweleries of the second respondent and told her that one sovereign is missing in weight out of the 10 sovereigns and asked her to get one sovereign from her parents. At the insistence, she got one sovereign gold from her parents. Accused did not allow second respondent to speak with her parents and the siblings. Her husband took her to Singapore, even without informing her parents. After she got conceived in Singapore, she was sent back to India all alone when she was eight months old pregnant. Petitioners demanded that second respondent's parents should give gold jewels for baby shower ceremony, else there would be no baby shower by her parents. Only after her parents provided 2 sovereign of gold jewels, baby shower was performed. Petitioners scolded second respondent in a very filthy language and caused her physical and mental cruelty. A female child was born on 24.12.2012. Her husband visited her twice and paid only Rs.1000/-. He has not cared for medical expenses and other expenses of the just born child. They have not taken any steps to take her to matrimonial home. But they demanded jewels to the child. Her husband threatened to divorce her, if her parents do not provide jewels to the child. Therefore, this case was given. After registering the case and after investigation, final report was filed for the offences under Sections 406, 498 (A) and 506 (i) of I.P.C. Challenging the final report, this petition is filed.

3.The learned counsel for the petitioners submitted that the complaint allegations show that entire allegations were made only against her husband, the first accused Kalairaj. The allegations made against the petitioners are only a generalized allegations and there are no specific allegations of harassment, entrustment of property and criminal intimidation. Petitioners are falsely implicated and therefore, case against the petitioners are liable to be quashed.

4.The learned counsel appearing for the second respondent submitted that specific allegations of harassment and other



5. Learned Government Advocate, also submitted that there are materials available against the petitioners for framing charges against them under Sections 406, 498 (A) and 506 (i) of I.P.C. Thus, he prays for dismissal of this petition.

7. The narration of complaint allegations shows that allegations are made with regard to demand of dowry prior to marriage, immediately after the marriage and other demands made by the petitioners, first accused. In that process, it is alleged that second respondent was subjected to cruelty by petitioners and her husband. It is claimed that except an ear stud, all the other jeweleries of the second respondent are available with her husband and the petitioner. It is alleged that petitioners and first accused Kalairaj demanded dowry and CBZ Hero Honda motor cycle prior to marriage. Even after the marriage, they demanded one sovereign gold jewel. They prevented her from talking to her parents and her siblings. It is alleged that they demanded jewels for conducting baby shower ceremony. Her husband neglected to maintain her and the child. It is said that he threatened her that, only if her parents provided gold jewels, he would take her to matrimonial home, else, he would divorce her. These are the specific allegations made against the petitioners and her husband. Based on these allegations, second respondent and her parents and other witnesses have given statements.

8. These allegations are denied by the petitioners. Whether the allegations are true or false, can be decided only after the examination of witnesses and its appreciation. The truth or falsity of allegations made in the complaint in the statement cannot be decided in a petition filed under Section 482 Cr.P.C. The law with regard to quashing the charge sheet is very well settled. In reported judgment in 2013 (10) Supreme Court Cases 591 Umesh Kumar Vs. State of Andhra Pradesh, it is observed that,

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



accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?"

22. In *State of Bihar v. P.P. Sharma & Anr.*, AIR 1991 SC 1260, this Court dealt with an issue of whether an application under Section 482 Cr.P.C. for quashing the charge sheet should be entertained before cognizance is taken by a criminal court and held as under:-

"68.....Quashing the charge-sheet even before cognizance is taken by a criminal Court amounts to killing a still born child. Till the criminal Court takes cognizance of the offence there is no criminal proceedings pending. I am not allowing the appeals on the ground alternative remedies provided by the Code as a bar. It may be relevant in an appropriate case. My view is that entertaining the writ petitions against charge-sheet and considering the matter on merit on the guise of prima facie evidence to stand on accused for trial amounts to pre-trial of a criminal trial... It is not to suggest that under no circumstances a writ petition should be entertained.... The charge-sheet and the evidence placed in support thereof form the base to take or refuse to take cognizance by the competent Court. It is not the case that no offence has been made out in the chargesheets and the First Information Report." (Emphasis added)

23. The issue of malafides loses its significance if there is a substance in the allegation made in complaint moved with malice.

In *Sheo Nandan Paswan v. State of Bihar & Ors.*, AIR 1987 SC 877, this Court held as under:

"16.....It is a well-established proposition of law that a criminal prosecution, if otherwise justifiable and based upon adequate evidence does



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not become vitiated on account of mala fides or political vendetta of the first informant or complainant."

24. In Parkash Singh Badal v. State of Punjab & Ors., AIR 2007 SC 1274, this Court held as under:

"74The ultimate test, therefore, is whether the allegations have any substance. An investigation should not be shut out at the threshold because a political opponent or a person with political difference raises an allegation of commission of offence. Therefore, the plea of mala fides as raised cannot be maintained."

25. In State of A.P. v. Goloconda Linga Swamy & Anr., AIR 2004 SC 3967, this Court held as under:

"8.....It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of malafides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding." (See also: K. Karunakaran v. State of Kerala, (2007) 1 SCC 59).

26. Thus, in view of the above, it becomes evident that in case there is some substance in the allegations and material exists to substantiate the complicity of the applicant, the case is to be examined in its full conspectus and the proceedings should not be quashed only on the ground that the same had been initiated with mala fides to wreak vengeance or to achieve an ulterior goal.

9. In the case before hand, as narrated above there are definite allegations made against petitioners and her husband alleging cruelty, demanding dowry and gold jewels, criminal breach of trust and criminal intimidation by her husband. There are enough materials available for framing charges against the petitioners. Therefore, this Court is of the considered view that the request of the petitioners for quashing the proceedings cannot be entertained and the Criminal Original Petition in CrI.O.P.No.22470 of 2015 is dismissed.

10. It is informed that the case in C.C.No.361 of 2014, on the file of the learned Judicial Magistrate, Perambalur, Perambalur District is transferred to the Additional Mahila Court, Perambalur and re-numbered as C.C.No.3 of 2016. Learned



Judge, is directed to dispose the case in C.C.No.3 of 2016 as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order. Considering that the case related to matrimonial issue, the learned Judge, is also directed to entertain 317 petition liberally, so that petitioners may be represented by their counsel and proceed with the case.

11.In fine, Criminal Original Petition in CrI.O.P.No.22470 of 2015 is dismissed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

1.The State represented by the
Inspector of Police
All Women Police Station
Perambalur
Perambalur District.

2. The Public Prosecutor,
High Court of Madras.

3. The Judicial Magistrate, Perambalur, Perambalur District

4. Additional Mahila Court, Perambalur.

+1cc to Mr.R.Sethuvarayar, Advocate, S.R.No.19712

CRL.O.P.No.22470 of 2015

PM(CO)
CT 06/04/2022