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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2259 of 2020

and

CRL.MP.Nos.1429 & 1431 of 2020

- 1.Rajenthiran
- 2.Bakkiyaraj
- 3.Poongkodi
- 4.Rasathi
- 5.Parvathi

... Petitioners / A2 to A6

Vs

1. The State rep by
The Inspector of Police,
All Women Police Station,
Virudhachalam,
Cuddalore District
(Cr.No.13 of 2017)

2. Mayavathi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in CC.No.115 of 2019 in Cr.No.13 of 2017 pending trial on the file of the Judicial Magistrate, Tittakudi and quash the same.

For Petitioners : No appearance

For Respondents : Mr.A. Gopinath for R1
Government Advocate (Crl.Side)

Mr.S.Mohan for R2.

ORDER

This petition has been filed to quash the proceedings in C.C.No.115 of 2019 on the file of the Judicial Magistrate, Tittakudi, thereby taken cognizance for the offences under Sections 498-A, 406, 506 (i), 323, 294 (b) of IPC in Cr.No.13 of 2017, as against these petitioners.



2. The case of the prosecution is that the first accused got married the second respondent on 03.02.2017. Thereafter, the A1 and A2 to A5 harassed the defacto complainant between the core and compel her to wear the dress which was purchased by them. The first accused also cheated the second respondent as if he completed Engineering Course. Again on 10.02.2017, all the accused persons had beaten the defacto complainant and also caused burn injuries. Thereafter, the second respondent got admitted as in-patient in a private hospital at Aavinangudi and had taken treatment for the injuries sustained by her. On 20.02.2017, all the accused persons have received dowry of Rs.1,00,000/- from the second respondent's parents. When the second respondent was about to leave to Dubai on 22.02.2017, all the jewellerys which were presented during the marriage were taken by the accused persons. Thereafter, the first accused had illegal extra marital affair with the 7th Accused and also he had relationship with so many girls at Dubai. Therefore, the second respondent returned to India and she was illegally detained. All the family members had beaten her.

3. The learned Government Advocate (Crl.Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

4. Heard Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent and Mr.S.Mohan, learned counsel for the second respondent.

5. There are totally seven accused in which the petitioners are arrayed as A2 to A6. They raised grounds that there are no specific allegations as against the petitioners and they did not called for ordeal trial since no specific allegations are against her to attract Sections 498-A, 406, 506 (i), 323, 294 (b) of IPC.

6. On perusal of the statements recorded under Section 161 of Cr.P.C., there are specific averments as against each of the petitioners herein to attract offences punishable under Sections 498-A, 312, 323, 294(b), 406, 506(i) of IPC. That apart, all the grounds raised against these petitioners are question of fact and it cannot be considered in this quash petition filed under Section 482 of Cr.P.C., All the grounds raised by the petitioners have to be considered or have to be gone through full-fledged trial before the trial court during the trial.



7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in CrI.A.No.1572 of 2019 dated 17.10.2019 in the case of Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details,



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on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

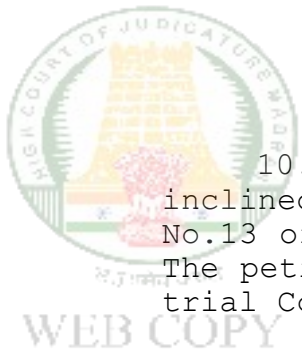
9. Further the Hon'ble Supreme Court of India also held in the order dated 02.12.2019 in CrI.A.No.1817 of 2019 in the case of M.Jayanthi Vs. K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.



10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.115 of 2019 in Crime No.13 of 2017 on the file of the Judicial Magistrate, Thittakudi. The petitioner is at liberty to raise all the grounds before the trial Court.

11. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gv

To

1. The Judicial Magistrate,
Thittakudi.
2. -do through- The Chief Judicial Magistrate,
Cuddalore.
3. The Inspector of Police,
All Women Police Station,
Virudhachalam, Cuddalore District
(Cr.No.13 of 2017)
4. The Public Prosecutor,
Madras High Court, Madras.

+1cc to Mr.S.Mohan, Advocate, S.R.No.35442

Crl.O.P.No.2259 of 2020
and
CRL.MP.Nos.1429 & 1431 of 2020

SV[co]
NSK/04/07/2022