



Crl.O.P.No.27216 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders RESERVED ON : 04.07.2022

Orders DELIVERED ON : 13.07.2022

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.27216 of 2016

and

Crl.M.P.No.13802 of 2016

1.P.Rangarajan

2.Senthamizselvi ... Petitioners/3rd and 4th Accused

Vs.

1. The State,

Represented by its Inspector of Police,

All Women Police Station,

Thirukoilur, Villupuram District. ...Respondent/Complainant

2. Devi

...Respondent/De-facto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, to set aside the order dated 17.06.2014 in C.C.No.1612 of 2008 on the file of the Judicial Magistrate at Tirukoilur.

For Petitioners : Mr.V.Raghavachari

For R1 : Mr.C.E.Pratap,
Government Advocate (Crl.Side)

For R2 : No appearance



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5. It is clear from the order dated 17.06.2014 that the learned Magistrate has taken cognizance of the offences under Sections 498A, 494 I.P.C and Section 4 of the Dowry Prohibition Act against both the A3 and A4 and the same is under challenge in this Crl.O.P.

6. Mr.V.Raghavachari, learned counsel for the petitioners contended that the present petitioners are added as A3 and A4 in the above Calender Case. However, without being given opportunity of being heard, the learned Magistrate has arrayed them as an accused to the proceedings. He drew my attention to the docket order passed by the learned Judicial Magistrate on 17.06.2014.

7.The learned counsel for the petitioners relied on a decision of the Hon'ble Supreme Court in the case of Jogendra Yadav & Others vs.State of Bihar & another reported in 2015(9) SCC 244, wherein the Supreme Court held as follows:-

"However, a person who is added as an accused under Section 319 of the Cr.P.C., is necessarily heard before being so added. From the above, it is clear that, first an opportunity should be given to the proposed accused, as to why, he should not be included as co-accused and after hearing him and analysing the sufficiency of the materials, the Court can either include him or drop action against him."



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8. In view of the law settled by the Hon'ble Apex Court regarding addition of an accused under Section 319 of Cr.P.C., necessary opportunity of being heard should have been issued by the learned Magistrate. Admittedly, the learned Magistrate has not followed the above procedures laid down by the Hon'ble Apex Court before adding the petitioner herein as A3 and A4.

9. Accordingly, the impugned order dated 17.06.2014 of the learned Magistrate is hereby set aside and the same is modified that the learned Magistrate shall issue notice to A3 and A4 as to the effect that why they should not be added as accused persons and thereafter, he could proceed with the Calendar Case in accordance with law.

10. With the above modification, this Criminal Original Petition is allowed to the limited extent indicated above. Consequently, connected Crl.M.P is closed.

13.07.2022

nvi
Internet : Yes



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To

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1. The Inspector of Police,
All Women Police Station,
Thirukoilur, Villupuram District.
2. The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN,J.,

nvi

order in
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