



*Crl.O.P.No.5999 of 2016*

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 09.11.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

**Crl.O.P.No.5999 of 2016**

**and**

**C.M.P.No.3076 of 2016**

Kavitha

... Petitioner

Vs.

1.State rep. by  
Inspector of Police,  
All Women Police Station,  
W-35 All Women Police Station,  
Tambaram, Chennai.  
[Cr.No.04/2014]

2.V.Priya

... Respondents

**Prayer** : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.703 of 2014 on the file of the learned Judicial Magistrate, Tambaram and quash the same.



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For Petitioner : Mr.R.Sreerangan

For Respondents

R1 : Mr.L.Baskaran  
Government Advocate [Crl. Side]

### **ORDER**

The petitioner who was arrayed as A4 along with three others in C.C.No.703 of 2014 for the offence under Section 498A of IPC, filed this quash petition.

2.The defacto complainant is the wife of A1, who is the brother of the petitioner.

3.The gist of the complaint is as follows:

The second respondent/defacto complainant married one Elango/A1 on 23.08.2012 at Kovilpatti, Virudhunagar District. During their marriage, 50 sovereigns of gold jewels and Rs.10 lakhs in cash were given as dowry. After the marriage, A1 and the defacto complainant were residing in an



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apartment in Selaiyur. The petitioner along with her father and mother demanded more dowry. Further, when the defacto complainant was pregnant, she was forced to abort the pregnancy by A1. When the defacto complainant went to her parents house for delivery, at that time neither her husband nor her in-laws including the petitioner visited her or enquired about her well being which caused mental agony and disturbance of peace. When the parents of the defacto complainant attempted to contact A2 and A3, father-in-law and mother-in-law of the defacto complainant, they demanded another Rs.50 lakhs as additional dowry and further stated that unless additional dowry is paid they would not allow their son/A1 to again rejoin the matrimonial life with defacto complainant. The demand was persistent and all the accused joined together in demand of dowry. Hence, the defacto complainant lodged a complaint, thereafter investigation conducted, listing L.W.1 to L.W.6 and collecting documents filed the charge sheet before the Trial Court.

4.The contention of the learned counsel for the petitioner is that the



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petitioner is working in State Bank of India as an Officer, the marriage of the petitioner with one K.Karthik Kumar was solemnized on 04.03.2012 and after her marriage, she was living with her husband in her matrimonial home at Krishnagiri, thereafter she was transferred to Vellore Branch on 30.03.2013 and later she was transferred to Coimbatore residing with her husband. He would submit that the petitioner's younger brother Elango/A1 married the second respondent on 23.08.2012, from 03.09.2012 the second respondent and her husband/A1 were living in Chennai, even prior to second respondent's marriage with A1, the petitioner got married having matrimonial home residing with her husband, the petitioner never lived as a joint family in any manner with the defacto complainant. He further submitted that the petitioner later came to understand that there was misunderstanding between the defacto complainant and the petitioner's brother in their matrimonial life which culminated into filing of divorce petition by her brother in H.M.O.P.No.135 of 2013 before the Sub Court, Kovilpatti and later the case was transferred to Chennai, renumbered as H.M.O.P.No.4491 of 2014. He further submitted that earlier when the second respondent received summons from the Sub Court, Kovilpatti, as a



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counter blast the above complaint was lodged. The respondent police failed to consider the real facts and mechanically filed a charge sheet in this case. There is no question of petitioner joining the other accused in demand of any dowry.

5.He further submitted that in the meanwhile, mediation talks held between the petitioner's family and the second respondent's family. The second respondent now migrated to Luxembourg and settled there with her child. Earlier the defacto complainant and her husband/A1 agreed to part ways on mutual terms which resulted in granting of divorce by mutual consent in H.M.O.P.No.3691 of 2017 by the III Additional Family Court, Chennai on 22.05.2018. It was agreed during the mediation that custody of the child Sonakshi would be with the second respondent and no claim in any manner would be sought by A1/husband or their family. Further, the second respondent/defacto complainant gave up all rights of alimony or maintenance past, present and future including for the child Sonakshi. During the mediation, it was agreed that the second respondent would file appropriate petition and cooperate for withdrawal of complaint in



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C.C.No.703 of 2014. The learned counsel for the petitioner further submitted that though quash petition was filed only by the petitioner/A4, the terms of agreement for withdrawal of the complaint or compounding of the same was agreed for all the accused in C.C.No.703 of 2014 by the second respondent. The petitioner produced the notarized affidavit of the second respondent confirming the mediation, settlement arrived between them, the orders passed in H.M.O.P.No.3691 of 2017, showing her inclination to withdraw the complaint in C.C.No.703 of 2014, not only against the petitioner/A4 but also against A1/her divorced husband, A2/father of A1 and A3/mother of A1. The learned counsel for the petitioner produced the affidavit of defacto complainant confirming the same for all the four accused.

6.Since the defacto complainant/second respondent is settled in Luxembourg, she could not make travel to India to be physically present. It is the learned counsel for the petitioner who sent email to the second respondent/defacto complainant on 29.01.2022, thereafter both continued to exchange mails, affidavit was prepared and sent as per the requirement of



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the Court, affidavit had been deliberated upon and thereafter, defacto complainant agreed and signed the same along with her proof of residence.

7.The learned Government Advocate [Crl. Side] submits that the respondent police verified the photograph of the defacto complainant/second respondent and confirmed that it is that of the defacto complainant. He would submit that the Inspector, All Women Police Station, Tambaram contacted the defacto complainant, sent email and also spoke to her through Whatsapp, informed about the pendency of the case and confirmed the affidavit and compromise. The defacto complainant reiterated the compromise entered and her inclination to compound or withdraw the criminal complaint/C.C.No.703 of 2014 filed against the petitioner/A4 as well as other in-laws, namely, A1 to A3 and further informed that the compromise is out of her free will without any coercion. Now after obtaining divorce by mutual consent, the defacto complainant is residing in Luxembourg with her daughter happily and having her own way of life. Further, she has no inclination to come back in future and in view of the compromise, she is not willing to pursue the case in C.C.No.703 of 2014



8.This Court on the submissions, on perusal of the materials produced, emails exchanged with the second respondent/defacto complainant and the affidavits produced, verified by the respondent police, satisfied that the compromise is not by force, out of free will. The defacto complainant is no more interested in pursuing the dispute between the defacto complainant and her in-laws, she already obtained divorce by mutual consent in H.M.O.P.No.3691 of 2017 on 22.05.2018, and both the defacto complainant and A1 parted ways. Further, it is a matrimonial dispute, now resolved and settled between them once for all. In view of the same, this Court is inclined to quash the proceedings against the petitioner as well as other accused in C.C.No.703 of 2014 for whom also the defacto complainant/second respondent given a compounding compromise affidavit.

9.In fine, the proceedings pending against the petitioner/A4, viz. Kavitha as well as A1/K.Elango, A2/A.Kandasamy and A3/Ramani in C.C.No.703 of 2014 is hereby quashed. Accordingly, the Criminal Original



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Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order  
cse

To

- 1.The Inspector of Police,  
All Women Police Station,  
W-35 All Women Police Station,  
Tambaram, Chennai.
- 2.The Judicial Magistrate,  
Tambaram.



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**M.NIRMAL KUMAR, J.**

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