



Crl.OP.No.3865 of 2022

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R.PONGIAPPAN, J.

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This criminal original petition is taken up for hearing under caption “for being mentioned”.

2. Heard the learned counsel appearing for the petitioners and learned Government Advocate(crl.side) appearing for the respondent police.

3. Now on going through the order passed by this Court, it is true there was a typographical error, as the defacto complainant had filed a petition for restitution of conjugal rights. Whereas no such petition has been filed by the defacto complainant. Therefore, it would be appropriate to modify paragraph Nos.1, 3, 6 & 7 in the order dated 17.02.2022 in Crl.OP.No.3865 of 2022. Accordingly, Registry is directed to replace paragraph Nos.1, 3, 6 & 7 in the order dated 17.02.2022 in Crl.OP.No.3865 of 2022 with the following paragraphs:

“The petitioners, who apprehend arrest for the alleged offences under Sections **294(b), 323, 498(A), 506(1) of IPC and**



Section 4 of Dowry Prohibition Act, in Crime No.1 of 2022, on the

file of the respondent police, seek anticipatory bail.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that petitioners 1 to 3 are the in-laws to the defacto complainant. It is his specific submission that after the marriage, the defacto complainant and her husband who is arrayed as accused No.1, are went away to Abu Dhabi and the defacto complainant returned in the month of March 2021. Afterwards, the defacto complainant left matrimonial home and stayed along with her parents. Only in the said occasion, she filed the false case against these petitioners. Hence, he prays for grant of anticipatory bail to the petitioners.

6. Here it is a case, the respondent police registered an F.I.R. as against the petitioners for the offence punishable under Sections 294(b), 323, 498(A), 506(1) of IPC and Section 4 of Dowry Prohibition Act. Admittedly, after the marriage between the defacto complainant and the first accused, they were left to Abu Dhabi and the



defacto complainant returned in the month of March 2021. Then only, due to the misunderstanding arose between the defacto complainant and her husband, she left the matrimonial house and stayed along with her parents at Thirupathur. The petitioners are in-laws to the defacto complainant.

7. In the said occasion, being the reason that the dispute having by the petitioners with the defacto complainant is related to the family affairs, it would be necessary to see the judgment of our Hon'ble Supreme Court in ***Arnesh Kumar Vs State of Bihar and another*** [Crl.A.No.1277 of 2014], wherein it has been held as follows:

“There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under the provision. In a quite number of cases, bed-ridden grand-fathers and grandmothers of the husbands,



their sisters living abroad for decades are arrested. “Crime in India 2012 Statistics” published by National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over Indian during the year 2012 for offence under Section 498-A of the IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women ie. 46, 951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share in 6% out of the total persons arrested under the crimes committed under Indian Penal Code. It accounts for 4.5% of total crimes committed under different sections of penal code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A IPC is as high as 93.6% while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,707 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal. Arrest brings humiliation, curtains freedom and cast scars forever. Law makers know it so also the police. There is a battle between the law makers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence; it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized



Crl.OP.No.3865 of 2022

time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive”

4. Accordingly, the Registry is directed to issue a fresh order copy of the order passed in Crl.OP.No.3865 of 2022 dated 17.02.2022 after making necessary correction as above. Further, the time to execute the bail bond before the satisfaction court is extended for a period of two weeks from the date of receipt of copy of this order.

10.03.2022

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