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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.11296 OF 2018

AND

CRL.M.P.NO.5837 OF 2018

1. C.Shanmugarajan
2. Madheswari

... Petitioners

Versus

1. The State,
Represented by its Inspector of Police,
All Women Police Station East,
Coimbatore.
(FIR 16 of 2017)

2. Logambal @ Priyanka

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the proceedings in FIR No.16 of 2017 dated 15.12.2017 on the file of the first respondent police and quash the same.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.R.Kishore Kumar for R1
Government Advocate (crl. side)

R2 - No Appearance

O R D E R

This Criminal Original Petition has been filed to call for the records of the proceedings in FIR No.16 of 2017 dated 15.12.2017 on the file of the first respondent police and quash the same.

2. The crux of the allegation in the FIR indicate that FIR has been registered pursuant to the complaint filed before the Court under Section 156 Cr.P.C. The marriage between the defacto



complainant and the 1st petitioner was solemnized on 22.02.2013. At the time of marriage, expenses were made by the father of the defacto complainant at about Rs.30,00,000/- and various articles were given in the name of seer to the petitioner worth about Rs.2 crores and as there was a dispute in the matrimonial life, the defacto complainant was beaten black and blue and not allowed to leave the petitioner. Pursuant to the same FIR has been filed against the petitioners.

3. The learned counsel for the petitioners submitted that this FIR is nothing but abuse of process of law and nothing but came to be filed much after the dissolution of the marriage between the 1st petitioner herein and the defacto complainant on 16.03.2016 vide order of this Court in HMOP.1390 of 2015. After divorce was granted in favour of the 1st petitioner herein, similar complaint was filed in D.V.A.C.No.23 of 2017 for Domestic Violence Act before the Magistrate Court on 05.07.2017. Thereafter, the husband went to meet the defacto complainant and the de facto complainant attacked her in front of the Police Officers which resulted in filing of FIR in Cr.No.782 of 2017, much after the similar allegations made in the divorce proceeding, which was pressed into service to file the present FIR. He further submitted that it is nothing but abuse of process of law and entire family members sought to be implicated for various offences on imaginary grounds. Hence, he prayed to quash the proceedings.

4. Despite the notice served and name being printed in the cause list, none appeared on behalf of the defacto complainant.

5. The learned Government Advocate(Crl.side) submitted that the marriage between the 1st petitioner and defacto complainant was solemnized on 22.02.2013, which is not in dispute. He further submitted that, the complaint in D.V.A.23 of 2017 filed before the Judicial Magistrate also indicate that the complaint has been filed mainly alleging that though divorce has been obtained, the jewels given at the time of marriage was not returned to her. Though the above private complaint has been filed under Domestic Violence Act, the entire complaint did not indicate that the allegations as narrated in the FIR is in the nature of cruelty. The main allegations appear to be with regard to the alleged non return of jewels. It was sought to be quashed and not stopping with that the present FIR has been filed. Pursuant to that, the learned counsel contended that, in order to attract the criminal proceedings, adding some other allegations to attract the offence, the de facto complainant has filed the FIR when the matrimonial proceedings are pending before the Trial Court. The defacto complainant has not even taken any stand and raised any defence as to the nature of jewels given by her parents at the time of marriage and remained



as a mute spectator and not even filed any counter in the divorce proceedings and remained ex parte. It is not the case that she was not aware of the divorce proceedings. The complaint in D.V.A 23 of 2017 indicate that she was well aware of the divorce proceedings initiated by her husband and the decree granted by the Court. Therefore, without participating in the divorce proceedings and making a complaint at later point of time clearly indicates that it is nothing but to defeat the decree already granted by the Court. Even, assuming there is some allegation in the complaint under DVA which is pending before the concerned Magistrate Court, further filing of FIR with similar allegations itself indicate that the proceedings is nothing but abuse of process of law only in order to take revenge on the husband and mother in law in matrimonial dispute.

6. In such view of the matter, this Court is of the view that the very FIR itself is an abuse of process of law and arising out of the matrimonial dispute. It is to be noted that the similar allegations were already made before the Court in DVA 23 of 2017. Hence, continuation of the present FIR and forcing the party to undergo investigation and ordeal of the trial is a clear case of abuse of process of law. Accordingly, the proceedings against the petitioners is quashed. Hence, the Criminal Original Petition is allowed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Inspector of Police,
All Women Police Station East,
Coimbatore
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.2544

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CRL.M.P.NO.5837 OF 2018

PL(CO)
PBS/08/02/2022