



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2022

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.16362 and 17028 of 2019
and
Crl.M.P.Nos.15392, 15393, 8195 & 8563 of 2019

Crl.O.P.No.16362 of 2019:

Mrs.S.Sugantha

.. Petitioner / 2nd Accused

/versus/

1.State represented by
Inspector of Police,
W-22, All Women Police Station,
Mylapore, Chennai-4.

...1st Respondent / Complainant

2.Mrs.V.P.Anuradha

...2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records in relation to the order dated 07.10.2014 in Crl.R.C.No.10 of 2013 on the file of 3rd Additional Sessions Judge, Chennai city confirming the order dated 18.01.2013 in Crl.M.P.No.241 of 2013 on the file of 18th Metropolitan Magistrate, Saidapet, Chennai and set aside the same and discharge the petitioner herein in C.C.No.3341 of 2011 on the file of the respondent police.

For Petitioner :M/s.A.L.Ganthimathi

For Respondents:Mr.N.S.Suganthan
Govt.Advocate (Crl.Side) for R1
Mr.V.Girishankar for R2

Crl.O.P.No.17028 of 2019:

Mr.S.Ganesh

.. Petitioner / Accused

/versus/



1.State represented by
Inspector of Police,
W-22, All Women Police Station,
Mylapore, Chennai-4.

...1st Respondent / Complainant

2.Mrs.V.P.Anuradha

...2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records in relation to the order dated 07.10.2014 in CrI.R.C.No.10 of 2013 on the file of 3rd Additional Sessions Judge, Chennai city confirming the order dated 18.01.2013 in CrI.M.P.No.241 of 2013 on the file of 18th Metropolitan Magistrate, Saidapet and set aside the same and discharge the petitioner herein in C.C.No.3341 of 2011 on the file of the respondent police.

For Petitioner :M/s.A.L.Ganthimathi

For Respondents:Mr.N.S.Suganthan

Govt.Advocate (CrI.Side) for R1

Mr.V.Girishankar for R2

COMMON ORDER

The petitioners herein are A2 and A3 in C.C.No.3341 of 2011.

2. The sum and substance of the criminal case pending against the petitioners is that Anuradha, the defacto complainant married Balasubramanian, the first accused, (who is no more now) on 27.01.2002. Till her father-in-law died in the year 2010, Marital life between Anuradha and Balasubramanian was cordial. Ganesh the petitioner in CrI.O.P.No.17028 of 2019 is the brother-in-law of Balasubramanian. Sugantha the petitioner in CrI.O.P.No.16362 of 2019 is the sister of Balasubramanian. Anuradha was living along with her husband and in-laws in the same house. After the death of father-in-law of the defacto complainant, disharmony developed and that has led to lodging the complaint on 17.07.2010 by the said Anuradha narrating several incidents of insults and harassments faced by her the hands of the husband in-laws in her marital home.

3.Two incidents are particularly stated in the complaint against these petitioners who are husband and wife(in-laws). The police has completed the investigation and filed the final report for the offence under Sections 498(A) and 506(ii) r/w 34 of IPC. The mother-in-law took out an application to quash the complaint against her and the same was allowed by this Court and thereafter, it was reported that the mother-in-law Parvatham,



who was arrayed as A4, lost her breath. Balasubramanian, the husband of the defacto complainant also died. Now there are two surviving accused, who are the petitioners before this Court.

4. The petitioners before the trial Court filed discharge petition. However, the trial Court on perusing the documents relied on by the prosecution, has declined to entertain the discharge petition.

5. Hence, this criminal original petitions are filed on the ground that the Courts below failed to consider the self-serving complaint of Anuradha is not supported by any corroborative statements by independent witnesses and even if the complaint is taken on its face value, there is no evidence made out to attract Section 498A and 506(ii) of IPC.

6. Per contra, the learned counsel appearing for the 2nd respondent submitted that apart from the statement of the victim lady Anuradha, the Police has recorded the statements of the housemaid, gardener and the independent witnesses who had spoken about the incident of cruelty and harassment. Therefore, if those statements are proved, the petitioners will be liable for conviction.

7. Heard the counsels. Records perused.

8. The complaint of Anuradha is the earliest document in this case which speaks about the insults and harassments, she met in her in-laws house. Two specific incidents are narrated by her which alleged to have been occurred on 23.06.2010 and 13.07.2010 respectively.

9. As pointed out by the learned counsel appearing for the petitioners, there is no evidence to corroborate the said allegation and even if those statements taken as proved, the ingredients to punish the petitioners under Sections 498A and 506(ii) IPC is not made out.

10. For better understanding the portion of the allegation made in the complaint is extracted below:-

"11. Apart from the above, there were many insults and harassments in her day-to-day life. To list a few:-

- I was never allowed to eat food along with my husband.

- I was forced to sit on the floor and eat, while all the other family members used to enjoy their food on the dining table, when we were in joint family.



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- Whenever I had minor problems like cold and cough I was forced to sleep outside the room, on the pretext that my coughing would spoil my husband's sleep.

- I was never allowed to use even the basic facilities like telephone and television.

- Despite my knowing to operate the computer, I was never allowed to touch the computer.

- I had to spend for my personal expenses out my meagre earnings as a teacher.

- Right from the day of my marriage, my husband never revealed nor gave his salary to me, but, used to give the same to my mother-in-law only was ever allowed to even read the daily news papers, while the others in the family had an access to the same.

12. The peak of the harassment had happened recently on two dates:

- On 23rd June 2010, consequent to an altercation between me and my sister-in-law, my sister-in-law got annoyed and pushed me towards a lighted stove uttering filthy words. In this process, my saree which I was wearing caught fire and my sister-in-law never attempted to put down the fire, but luckily I noticed the same and removed my saree, thereby saving my life."

11. From the documents relied on by the prosecution, for the incidents alleged to have been taken place on 23.06.2010 which is hardly 25 days prior to the complaint, this Court finds no material collected by the investigating agency. As far as the incidents alleged to have been taken place on 13.07.2010, the prosecution has relied upon the statement of one Poyyamozhi, a resident of Airport Colony, Thirumalai Nagar, Asthinapuram, Sembakkam, Chennai, which is not within the locality of the residence of the complainant. However, he has stated that twice he was in that vicinity and both occasions he saw the defacto complainant screaming for help. The first occasion according to him was on 14.07.2010 and next on 17.07.2010. Both the days do not tally with the dates mentioned in the complaint. This obviously indicates that the statement of the said Poyyamozhi is of no corroboration to the complaint.

12. In the said circumstances, when the main accused Balasubramanian, who is the husband of the defacto complainant is dead, prosecuting the sister-in-law and her husband against whom the allegation levelled lacks prima facie proof. Therefore, it is unnecessary to force the petitioners to undergo the ordeal of the trial.



13. For the said reasons, the criminal complaint pending on the file of the 18th Metropolitan Magistrate, Saidapet, Chennai in C.C.No.3341 of 2011 is quashed. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The 18th Metropolitan Magistrate,
Saidapet, Chennai.
2. The 3rd Additional Sessions Court,
Chennai.
3. The Inspector of Police,
W-22, All Women Police Station,
Mylapore, Chennai-4.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.V.Girishankar, Advocate, S.R.No.35698
+lcc to Mr.B.Natarajan, Advocate, S.R.No.35697
+lcc to M/s.A.L.Ganthimathi, Advocate, S.R.No.35717

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and
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NSK/30/06/2022