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Crl.O.P.No.18021 of 2019
and
Crl.M.P.No.9076 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.11.2022

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.18021 of 2019

and

Crl.M.P.No.9076 of 2019

1.Mrs.Rathanamala

2.Mr.Balaraman

3.Mrs.Shanmuga Priya

4.Mr.Pradeep alias Pradeep Kumar .. Petitioners

/versus/

1.State by
Inspector of Police,
J-7 Velacherry Police Station,
Chennai.
Crime No.462/2019

2.Mrs.Gayathri .. Respondents

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records in F.I.R registered in Crime No.462/2019 dated 08.06.2019 pending on the file of the First Respondent Police and quash the same against the petitioners.

For Petitioners :Mr.C.Iyyanar
For Respondents :Mr.N.S.Suganthan,
Government Advocate (Crl.side)
for R1
No appearance for R2



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ORDER

The petitioners are in-laws of the defacto complainant, Gayathri. According to the complaint, which is impugned in this petition, the defacto complainant on 20.08.2015 married one Saravanan, who is the son of the first petitioner. A female child born to them and on the date of the complaint, the child was about 3 years old.

2. It is alleged in the complaint that, her husband Saravanan, due to his mental illness went to the job only for four months after the marriage. The family members of Saravanan, who are arrayed as A2 to A5 in the complaint, knowing fully well that Saravanan is not mentally fit, suppressed the said fact and arranged the marriage with the defacto complainant. When she came to know about the mental illness of her husband, she questioned her in-laws about it, they threatened her with dire consequences. Whenever she questioned them about their fraudulent suppression of the mental illness of Saravanan, they used to tease her saying that she has not brought enough dowry and they also used to harass her physically and mentally. Her husband used to send vulgar



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messages through whatsapp and when she questioned him and the petitioners about his conduct, she was physically assaulted on 30th and 31st of May 2019. Hence, the complaint dated 08.06.2019 has been lodged.

3. The said complaint was taken on file for investigation in Crime No.462 of 2019 for the alleged offences under Sections 294(b), 323, 506(i) of IPC and 4 of Tamil Nadu Prohibition of Women Harassment Act.

4. The petitioners, who are mother-in-law, father-in-law, and sister-in-law and her husband in this petition seek quash of the complaint on the ground that it is a malafide complaint given falsely alleging her husband Saravanan suffers mental illness and when she questioned about the act of suppression of his mental illness, petitioners joined together and harassed her by treating cruelly.

5. The learned counsel appearing for the petitioners submitted that the defacto complainant and her husband Saravanan were living



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separately and these petitioners were not staying with them. On 01.06.2019 these petitioners 1, 3 and 4 were not present at the alleged scene of occurrence and they never instigated the first accused to cause any injury or harm to the defacto complainant. The complaint given after four years of marriage alleging that her husband suffers mental illness and the same was suppressed by the in-laws, is itself a figment of imagination and inherently improbable.

6. The learned counsel submitted that the defacto complainant and her husband had matrimonial dispute and her husband on 01.06.2019 informed the parents of the defacto complainant about the behaviour of the defacto complainant. So, at about 05.00 p.m, his father-in-law and mother-in-law and brother-in-law came to his house and started abusing Saravanan and also attacked him brutally. He got admitted in the Royapettah hospital and got treatment for the injuries. In this connection, the husband of the defacto complainant had lodged a complaint before the Velachery Police Station on 08.06.2019 and the same was taken up for investigation in Crime No.463 of 2019. After attacking her husband Saravanan brutally, to escape from the complaint and to counter blast his



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complaint, the defacto complainant, to save her parents and brother has given the false complaint roping the family members of Saravanan.

7. The learned counsel further submitted that to dissolve the marriage with the defacto complainant, her husband Saravanan, has filed a case in H.M.O.P.No.4460 of 2019 before the learned III Additional Family Court, Chennai and same was allowed on 15.09.2022.

8. The learned Government Advocate (Crl.Side) appearing for the State submitted that on 08.06.2019, a case in Crime No.462 of 2019 by the second respondent which is impugned in this Criminal Original Petition and a case in Crime No.463 of 2019 by her husband Saravanan came to be registered in connection with the physical altercation between the members of the defacto complainant's family and the members of her husband's family. The investigation in case and case in counter had not proceeded due to non co-operation of the defacto complainant, since her family members are shown as accused in the counter case. In both the complaints, the incident alleged to have been taken place on 01.06.2019 at the residence of the defacto complainant. However, the complaint



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came to be lodged on 08.06.2019. The Court notice sent to the defacto complainant/the second respondent served and she has engaged a counsel to represent her. However, for the past 2 hearings, there is no representation.

9. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and also records perused.

10. Both Crime Nos.462 and 463 of 2019 registered on 08.06.2019 refer about the incident occurred on 01.06.2019 and on the pleadings of the complaint, it is very obvious that it is a case and case in counter which alleged to have been taken place at the house of Saravanan, when the family members of the defacto complainant Gayathri came to the house of Saravanan. As far as the complaint, which is impugned in this Criminal Original Petition, the averments made against the petitioners who are in-laws is primarily the allegation of suppressing the mental illness of Saravanan. Further, the complaint given by Saravanan was registered in Crime No.463 of 2019 and there is no



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intimation that the said Saravanan suffers mental illness even prior to the marriage, which occurred four years before the complaint. As a result of matrimonial life, the defacto complainant Gayathri has begotten female child aged 3 years at the time of the complaint.

11. In the said circumstances, the averments and the allegations made in Crime No.463 of 2019, as far as against the petitioners who are shown as A2 to A5 is improbable. If really the said Saravanan had any serious mental disorder at the time of marriage the defacto complainant ought not have lived with him for four years and her complaint which alleges that Saravanan was taking treatment at Vijaya Hospital, Vadapalani for his illness has not been supported by any documents to show that he was taking treatment with the knowledge of these petitioners even prior to his marriage.

12. In the said circumstances, this Court finds that it is a malicious prosecution to settle the matrimonial dispute through the criminal complaint and as a counter blast to the complaint registered against the parents and brother of the defacto complainant Gayathri.



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Hence, the complaint in Cr.No.462 of 2019 on the file of the first respondent police is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

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Index:yes/no
Speaking order/non speaking order
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To

1.The Inspector of Police,
J-7 Velacherry Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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