

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.20197 of 2020
and Crl.M.P.Nos.8408 and 8409 of 2020

1.Dr.P.Pathmanathan
2.Dr.P.Jayagandhi

... Petitioners/
Accused 2 & 3

-Vs-

V.Monica

... Respondent/
Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.281 of 2020 on the file of the learned Judicial Magistrate / Additional Mahila Court at Krishnagiri, quash the proceedings in C.C.No.281 of 2020 in as far as the petitioners herein are concerned.

For Petitioners : Mr.C.S.Dhanasekaran

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.281 of 2020 on the file of the learned Judicial Magistrate/Additional Mahila Court at Krishnagiri for the alleged offences under Sections 3 and 4 of the Dowry Prohibition Act and Section 498(A) of IPC as against the petitioners.

2. The respondent is the wife of the first accused. They got married on 17.04.2017. The petitioners are arrayed as A2 and A3. They are father-in-law and mother-in-law of the respondent herein. The respondent lodged a complaint alleging that she was tortured and harassed by the accused persons. They also abused her with filthy languages. They directed the respondent to do all house maid works and demanded huge dowry.

3. The learned counsel for the petitioners pointed out that the marriage was held between the first accused and the respondent herein on 17.04.2017 and due to their wedlock they

gave birth to a male child on 20.02.2018. Thereafter, the respondent was not interested to join with her husband and insisted for separate residence. Accordingly, the petitioners provided separate residence for their son. In fact, the respondent initially lodged a complaint before the Inspector of Police, All Women Police Station, Bargur and she was issued C.S.R.No.86 of 2019. On the basis of the complaint, the enquiry was conducted and the respondent herein insisted for return of all gold jewels and other household articles which were presented during the marriage. Accordingly, the gold jewels and silver articles were duly returned to the respondent at the police station. It was also duly acknowledged by the respondent on 15.06.2019.

4. A perusal of the said acknowledgment revealed that after receipt of all the household articles and gold jewels which were presented during the marriage, she wants to live with the first accused. Thereafter, she lost her trustworthiness of her husband and refused to live with the first accused. Therefore, the first accused filed a petition for divorce in H.M.O.P.No.394 of 2019 dated 03.06.2019 on the file of the Sub-Court, Tambaram. On receipt of the summons from the Family Court, the respondent filed a complaint under the Domestic Violence Act in D.V.C.No.71 of 2019 on the file of the learned Judicial Magistrate / Additional Mahila Court at Krishnagiri, as against all the family members including the petitioners herein and their close relatives.

5. Simultaneously, the respondent filed a present complaint under Section 202 of Cr.P.C., as against all the family members including her husband. The learned Magistrate before taking cognizance conducted an enquiry as contemplated under Section 202 of Cr.P.C. Since the petitioners are residing outside the jurisdiction of the Trial Court, the learned Magistrate directed the Deputy Superintendent of Police, Bargur to conduct the enquiry. Accordingly, the Deputy Superintendent of Police, Bargur, conducted a detailed enquiry and recorded statements of all the relatives. At the end of the enquiry, the Deputy Superintendent of Police, Bargur, concluded that there was no dowry demand and due to misunderstanding between the husband and wife, there is an issue between them. That apart, the first accused already filed a petition for divorce in H.M.O.P.No.394 of 2019 and it is pending on the file of the Sub-Court, Tambaram and the respondent also filed a petition under the Domestic Violence Act in D.V.C.No.71 of 2019, and it is pending. Therefore, with an intention to wreak vengeance against all the accused persons, the respondent lodged a complaint.

6. On receipt of the report submitted by the Deputy Superintendent of Police, Bargur, the learned Magistrate deleted

the accused 4 to 8, who are the family members of the petitioners and had taken cognizance as against her husband and the petitioners herein for the offences under Sections 498(A) and Sections 3 and 4 of the Dowry Prohibition Act.

7. It is seen that only after receipt of the receipt of the summons from the Family Court, the respondent filed a complaint under the Domestic Violence Act and also filed a present complaint. Even according to the report submitted by the Deputy Superintendent of Police, Bargur, there was no dowry harassment by the petitioners. Only due to misunderstanding between the husband and wife they got separated and divorce petition is pending.

8. Therefore, no offence is made out under the Dowry Prohibition Act as against the petitioners. Hence, the present complaint is nothing but a clear abuse of process of law and after receipt from the summons of the Family Court, the present complaint has been foisted as against the petitioners. Insofar as the offence under Section 498(A) of IPC is concerned, the respondent averred vague and bald allegations as against the petitioners. Admittedly, after giving birth to a child, the respondent and her husband are living separately. As far as the petitioners are concerned they are father-in-law and mother-in-law of the respondent. In fact, in the year 2019, she lodged a complaint before the Inspector of Police, All Women Police Station, Bargur under C.S.R.No.86 of 2019. The respondent received all the gold jewels and silver articles and also other household articles. Therefore, the present complaint is nothing but a counter blast to the divorce petition filed by the first accused. Therefore, the entire complaint cannot be sustained as against the petitioners and it is nothing but clear abuse of process of law.

9. In this regard, it is relevant to extract the judgement reported in (1992) SCC Cr1. 426 in the case of Bajanlal v. State of Haryana, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."

Therefore, the impugned complaint is nothing but a clear abuse of process of law and it cannot be sustained as against the petitioners.

10. Therefore, the proceedings in C.C.No.281 of 2020 on the file of the learned Judicial Magistrate / Additional Mahila Court at Krishnagiri is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cda/mn

To

1. The Judicial Magistrate / Additional Mahila Court,
Krishnagiri.
2. - do through The Chief Judicial Magistrate,
Krishnagiri.

+lcc to Mr.C.S.Dhanasekaran, Advocate, S.R.No.42136

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PMK(CO)
CT/26/07/2022