



Crl.O.P.No20096 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

Crl.O.P.No.20096 of 2019

and

Crl.M.P.No.10313 of 2019

1.Siddharth Gopinath
2.Leela Gopinath
3.Gopinath Menon

... Petitioners

Vs.

1.State Rep.by
The Inspector of Police,
T-4, Maduravoyal Police Station,
No.17, Poonamallee High Road,
Maduravoyal, Chennai-600 095.
Crime No.836 of 2018

2.Sarath Chandrakumar

... Respondents

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records and to quash the F.I.R.No.836 of 2018, dated 03.09.2018, registered against the petitioners at T-4, Maduravoyal Police Station under Section 174 of Cr.P.C., @ 306, 406 & 498 A of I.P.C and all consequential proceedings arising therefrom.

For Petitioners : Mr.Karunakaran A.R.

For R1 : Mr.N.S.Suganthan
Government Advocate (Crl.Side)



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For R2

: Mr.R.Thangavel

ORDER

This Criminal Original Petition is filed to quash the criminal complaint pending on the file of the 1st respondent. Perusing the Registry note, it is seen that a case in Crime No.836 of 2018 dated 03.09.2018 initially registered under Section 174 of Cr.P.C., has been altered to 306, 406 & 498 A of I.P.C.

2. The short facts as found in the complaint is that Siddharth Gopinath, the 1st petitioner herein married one Smrija on 28.01.2016. It was love cum arranged marriage. The matrimonial home was set up at Maduravoyal. Even after three years of their marriage, Smrija did not conceive and in view of that there was frequent quarrel between the couple. On 02.09.2018 during night hours, the couple was engaged in serious arguments. Thereafter, the wife, Smrija went to her bed room and locked herself. Her husband, the 1st petitioner herein was sleeping in the living room and he went to the bed room next day morning. Since there is no response from Smrija, who was sleeping inside the bed room, the door



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was broke open and he found that Smrija was lying dead by hanging herself. In this connection, the parents of Smrija was informed by the brother of the 1st petitioner. Pursuant to which, a case under Section 174 Cr.P.C., came to be registered.

3. Later, on 15.01.2019, Sarath Chandrakumar, the father of Smrija has caused notice through his Advocate to the 1st petitioner, Siddharth Gopinath and his mother Leela Gopinath calling upon them to return back 150 Sovereigns of gold ornaments, including bangles and Rs.4,35,000/- which was given for the purchase of car. In response to this notice, the 1st petitioner and his mother, Leela Gopinath, who is the 2nd petitioner herein, have replied through their counsel stating that the claim of 150 Sovereigns alleged to have been given during the marriage is an imaginary one, whereas the car which was purchased from the fund provided by the *de facto* complainant has not been used by them, but it is in their custody and any time, the *de facto* complainant can take back the car. This reply was sent on 15.05.2019. Thereafter, the 1st respondent has altered the charges to Sections 306, 406 & 498A of I.P.C., vide report



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dated 01.06.2019 and a copy of the F.I.R., with alteration report had been forwarded to the learned Magistrate on 06.06.2019.

4. The learned counsel for the petitioners, who are the husband, mother-in-law and father-in-law, submits that soon after receiving the intimation about the death of Smrija within seven years of the marriage, the police has registered the F.I.R., and requested the Revenue Divisional Officer to conduct an enquiry. After receipt of R.D.O., enquiry, indicating that there was no material to indicate that there was dowry harassment, the investigation is supposed to be closed. But due to ill advise, the *de facto* complainant after four months of incident, caused notice to the 1st and 2nd petitioners to return 150 Sovereign of gold jewellery and money given for the purchase of car. Since the factum of receiving money for the purchase of the car is true, the petitioners come forward to return the car which was purchased by the money given by the *de facto* complainant. They denied 150 Sovereigns of gold jewellery offered by them at the time of marriage. Thereafter, with false allegations, the police has been pressured to alter



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the charges for the offences under Sections 306, 406 & 498 A I.P.C.

5. The learned counsel for the petitioners would submit that it is an admitted fact that the daughter of the *de facto* complainant died three years after the marriage. It is also an admitted fact that she cannot conceive and due to which there was quarrel between the husband and wife and on the date of incident there was a quarrel between the couple. Smrija went into her bed room and locked herself. During the R.D.O., or primary enquiry conducted by the police, there was no material or whisper from any witness including the *de facto* complainant that there was a demand for dowry or cruelty. Except wordy quarrel between the couple which is common in any Indian family, there is not even a *prima facie* material to prosecute the petitioners for the offence under Sections 306, 406 & 498 A I.P.C. The lawyer notice dated 15.01.2019 was caused after four months of the incident. The reply, which was sent by the petitioners in the month of May 2019 refusing to budge to the pressure of the *de facto* complainant, has triggered the expectation of the *defacto* complainant to file the complaint. The course of investigation due to



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undue influence of the *de facto* complainant been manipulated with the help of senior police officer called by name Mr.Jayaraman, Assistant Commissioner of Police.

6. The learned counsel for the *de facto* complainant would submit that the *de facto* complainant hails from Kerala and he was not aware of the actual cruelty caused to his daughter since his daughter did not reveal it to him, except saying that small misunderstanding between them and nothing serious. Only few months after his daughter's death, he came to know that his daughter was subjected to cruelty. Hence, he caused notice and thereafter approached the police and placed before them the necessary particulars. It is a matter for investigation to ascertain whether Smrija who died within three years of her marriage committing suicide was due to cruelty or abetment or otherwise. The investigation cannot be foreclosed by quashing the complaint without proper investigation.

7. In normal circumstances, this Court would have rejected



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the quash petition then and there holding that it would not be proper to make summary appreciation of evidence under Section 482 of Cr.P.C., but as an exception in this case, this Court finds that from 03.09.2018 till 15.01.2019 there is no whisper of any demand of dowry from any quarter including the parents of the deceased. No complaint of demand for dowry or any suspicion in the suicide of their daughter Smrija made immediately. Only after causing notice, the demand of 150 Sovereigns was made. The allegation against these petitioners has been further improvised after the receipt of reply notice dated 15.05.2019. The coercive steps has been adopted by the defacto complainant through his connection in police department.

8. The learned counsel for the *de facto* complainant would submit that there is some admission in the anticipatory bail petition filed by the petitioners 1 and 2 which lends *prima facie* material for investigation.

9. This Court time and again has held that admissions or



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averments made in the bail or anticipatory bail petition to get relief cannot be taken as a gospel truth, since they are prepared by the respective counsel and made at the instructions of the accused/petitioners who is in duress. Those statements made for obtaining bail orders.

10. This Court, on perusing the report of Revenue Divisional Officer who has conducted enquiry soon after the receipt of information about the death of Smrija within a period of seven years of her marriage, finds that there is no element of dowry harassment to force Smrija to commit suicide. There is also no material even prima facie to indicate her death was due to abetment by any person much less the petitioners herein. Hence, ***this Criminal Original Petition to quash the First Information Report is allowed.*** The criminal complaint in Crime No.836 of 2018 stands quashed. Consequently, the connected Criminal Miscellaneous Petition is also closed.

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Index: Yes/No
To



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1.The Inspector of Police,
T-4, Maduravoyal Police Station,
No.17, Poonamallee High Road,
Maduravoyal, Chennai-600 095.

2.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN, J.

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