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Crl.O.P.No.23177 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Crl.O.P.No.23177 of 2022
and Crl.MP.No.14824 of 2022

1. Ellanki Venkateswarlu
2. Vijayalakshmi @ Ellanki Jeyalakshmi
3. Ellanki Avinash
Petitioners

...

Vs

Amulya Malineni
Respondent

...

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the Private Complaint in C.C.No.295 of 2022 pending on the file of the Judicial Magistrate Additional Mahila Court, Magistrate level, Tiruvallur and quash the same.

For Petitioners : Mr.A.Suresh Sakthi Murugan

For Respondent : Mr.S.Krishnaa
for M/s.Acuity Law Chambers



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ORDER

This criminal original petition has been filed to call for the records pertaining to the Private Complaint in C.C.No.295 of 2022 pending on the file of the Judicial Magistrate Additional Mahila Court, Magistrate level, Tiruvallur and quash the same

2. The learned counsel appearing for the petitioners submitted that the petitioners are father in-law, mother in-law and brother in-law of the defacto complainant. The respondent/defacto complaint is the wife of the 1st and 2nd petitioners younger son Ellanki Akhilesh. Due to some misunderstanding between the defacto complainant and her husband she filed HMOP.No.649 of 2019 on the ground of impotency and on 15.04.2021 an exparte order annulling the marriage was passed. Thereafter, the defacto complainant has filed a Domestic Violence Complaint against these petitioners for the same set of allegations in DVC.No.42 of 2022 and the same is pending before the Sub Court, Poonamallee. While so, after filing of a DVC, the defacto complainant has filed a private complaint before the Judicial Magistrate Additional Mahila



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Court, Magistrate level, Tiruvallur with the same set of facts. Even in the complaint given by the defacto complainant as well as in her chief examination, there is no allegation of harrasement by demanding dowry as against these petitioners. Under these circumstances, the case against the petitioners are unsustainable and pleaded to quash the criminal proceedings against these petitioners.

3. The learned counsel for the respondent submitted that there is a specific allegation in the complaint about the demand of dowry. Further before the trial Court, three witnesses have been examined and all of them have specifically stated about the demand of dowry. Therefore, the case has to be adjudicated after examining the witness and before that it ought not to be quashed. Therefore, he opposed for allowing this petition.

4. Heard both sides and perused the materials available on record.

5. On perusal of the records, it reveals that the petitioners are accused in C.C.No.295 of 2022 on the file of the Judicial Magistrate Additional Mahila



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Court, Magistrate level, Tiruvallur. The defacto complainant married Akilesh who is the younger son of the first and second petitioners herein on 20.02.2019 in Nellore. After marriage, there was a misunderstanding between the husband and wife, due to which HMOP.No.649 of 2019 was filed before the Sub Court, Poonamallee by the defacto complainant against her husband on the ground of impotency and an exparte order annulling the marriage was passed on 15.04.2021. This present case is filed by the defacto complainant on the allegation that these petitioners along with her husband harrassed the defacto complainant by demanding dowry, therefore she filed a private complaint against her husband and in-laws for the offences under Section 34, 405, 415, 498-A of IPC, Section 3 & 4 of Dowry Prohibition Act, 1961 & Section 3(a) (b) (c) & (d) of the Protection of Women from Domestic Violence Act, 2005. Further it is seen that before the trial Court three witnesses were examined and the case is posted for further examination of the witnesses. Therefore, trial has to be commenced and the dispute has to be adjudicated by let in evidence. Therefore, it is not proper to quash the criminal proceedings before commencement of the criminal proceedings at this stage and it does not meet the parameters laid down by the Supreme Court in ***State of Haryana vs.***



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Ch.BhajanLal (AIR 1992 SC 604), M/s Neeharika Infrastructure Pvt. Ltd.

Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA

RANI Vs.SURAJ KUMAR & ANR (1985 CrI.L.J.817). Therefore, it is inappropriate to quash the C.C.No.295 of 2022 on the file (Additional Mahila Court) Judicial Magistrate level, Tiruvallur. Hence, I find no merit in this petition and the same is liable to be dismissed. Consequently connected miscellaneous petition is also closed.

6. At this stage, the learned counsel for the petitioner sought indulgence of the Court, to dispense with the personal appearance of the petitioners before the trial Court and also requested to direct the trial Court to dispose of another case in DVC.No.42 of 2022 pending against this petitioner before the (Additional Mahila Court), Judicial Magistrate level, Tiruvallur simultaneously with the present case.

7. In view of the submissions of the learned counsel for the petitioners, the personal appearance of the petitioners before the trial Court are dispensed with on condition that they should appear before the trial Court as and when



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required by the trial Court and the trial Court is hereby directed to dispose of the C.C.No.295 of 2022 and DVC.No.42 of 2022 on the file of (Additional Mahila Court) Judicial Magistrate level, Tiruvallur simultaneously within a period of four months from the date of receipt of a copy of this order.

8. With the above direction this Criminal Original Petition is dismissed.

Consequently connected miscellaneous petition is also closed.

16.11.2022

Internet:Yes
Speaking/Non speaking order
dpq

To

1. The Judicial Magistrate
Additional Mahila Court,
Magistrate level, Tiruvallur
2. The Public Prosecutor,
High Court of Madras.



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V. SIVAGNANAM, J.

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