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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.7799 of 2017

and

Crl.M.P.Nos.5634 and 5635 of 2017

1. Manjula
W/o.Late Kandasamy

2. Saranya
D/o.Late Kandasamy

... Petitioners/Accused 2 & 3

Versus

1. The State represented by
Inspector of Police
All Women Police Station
Gandhipuram
Coimbatore
(Crime No.1 of 2016)

... 1st Respondent/Complainant

2. P.Radhika

... 2nd Respondent /De facto complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C to call for the records relating to C.C.No.18 of 2016 on the file of the Additional Mahila Court (Magisterial Level), Coimbatore and to quash the same.

For Petitioners : Mr.Jayan
for Mr.C.Prabakaran

For Respondent : M/s.Kishore Kumar
Government Advocate for R1
No appearance for R2

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.18 of 2016 pending on the file of the Additional Mahila Court (Magisterial Level), Coimbatore.

2. These petitioners, who are arrayed as A2 and A3, are



mother and sister of the first accused. The marriage between the de facto complainant and the first accused was solemnized on 21.10.2010 and 50 sovereigns of gold was given by the de facto complainant's parents at the time of marriage and a sum of Rs.20 lakhs was also spent for the marriage and out of the wedlock, a girl child was born to the first accused and the de facto complainant. The crux of the allegation in the final report is that right from the marriage, accused 1 to 3 demanded dowry and has also caused cruelty and driven the de facto complainant out of the matrimonial home. When the things stood thus, on 17.02.2016, when the de facto complainant went to the matrimonial house to see the child, the accused did not allow her to see the child and also abused her resulting in the lodging of the complaint for the offences under Sections 498(A), 323 and 406 IPC.

3. The learned counsel appearing for the petitioners submitted that the entire allegation against these petitioners is motivated and such allegation has been made only in order to get the custody of the child from the first accused. The learned counsel further submitted that the de facto complainant has also filed Habeas Corpus Petition in H.C.P.No.421 of 2016 seeking production of the child and this Court vide order dated 09.03.2016 dismissed the petition directing the de facto complainant herein to approach the appropriate forum. It is the further contention of the learned counsel for the petitioners that the present complaint has been filed against these petitioners only in order to wreck vengeance out of frustration in matrimonial issue. It is, therefore, submitted that if the entire allegations are taken in its face value, the allegations made against these petitioners do not constitute an offence and learned counsel seeks to quash the final report.

4. I heard learned Government Advocate (Crl.side) appearing for the first respondent. There is no representation for the second respondent/de facto complainant.

5. It is submitted by the learned Government Advocate (Crl.side) that on completion of investigation it is found that there are some allegations against these petitioners and a final report has been filed and he opposed for quashing the final report.

6. Normally, when the final report discloses prima facie materials to proceed for trial, this Court would not embark upon the exercise of testing the veracity of the statements, however,



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at the same time, if this Court finds that the family members were implicated due to the frustration in the matrimonial dispute between husband and wife and such allegations have been made only in order to take some advantage from A1, this Court can very well go into the details of the other facts. In the case on hand, the de facto complainant has filed HCP for the production of the child wherein the only allegation made against these petitioners is that they did not allow her to see her child and they were hiding the child whereas the allegation made in the FIR is to the effect that the first petitioner herein induced her son, who is the first accused, to cause cruelty on the de facto complainant. The main allegation against these petitioners is that they also teased the de facto complainant when she complained about her husband and said that since she has eloped with the first accused, she has to undergo the ordeal. Further allegation made against them is that even in the separate resident set up by her husband, the first petitioner induced A1. Thereafter, they also vacated the house when she went to her parents house. Further allegations have also been made as if the first accused removed the thali chain on 17.02.2016. It is relevant to note that though such allegations have been pressed into service in the complaint, pleadings made in the affidavit filed in support of Habeas Corpus Petition, which was filed on 07.03.2016, are silent and there is no whisper about the alleged allegation of removal of thali and causing cruelty. The above facts clearly show that the petitioners were roped in unnecessarily in the matrimonial dispute between husband and wife. It is also submitted by learned counsel for petitioners before this Court that the guardian OP filed by the de facto complainant in Guardian O.P.No.134 of 2016 on the file of Principal District Court, Coimbatore was also dismissed.

7. The above facts clearly indicate that these petitioners have been unnecessarily roped in and the above allegations in the complaint and the final report are trivial in nature. It is also evident from the complaint that she was residing along with her husband in a separate resident and hence, the alleged allegation against these petitioners causing cruelty is highly improbable and the same has not been pleaded in the Habeas Corpus Petition. These allegations have been pressed into service only to make out a criminal offence. As this Court prima facie finds that the prosecution has been motivated against these petitioners in a matrimonial dispute, the petitioners, being mother-in-law and sister-in-law of the de facto complainant, have been falsely implicated.

8. In such view of the matter, the final report filed in C.C.No.18 of 2016 on the file of Additional Mahila Court



(Magisterial Level), Coimbatore is quashed. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gpa/gba

To

1. The Judge,
Additional Mahila Court (Magisterial Level),
Coimbatore.
2. The Inspector of Police,
All Women Police Station,
Gandhipuram
Coimbatore.
3. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.4487

CrI.O.P.No.7799 of 2017
and
CrI.M.P.Nos.5634 and 5635 of 2017

AK-II (CO)
SU (10/02/2022)