



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.23822 of 2019

and

Crl.M.P.Nos.12554, 12555 and 15643 of 2019

1.S.Subramaniam @ Raja
2.S.Selvaraj
3.S.Rajammal
4.V.Subathradevi
5.V.Vinay
6.V.Umadevi
7.A.Mohan

...Petitioners/Accused

Vs.

1.State rep by
Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai.

2.Divya Venkatesan Babu

...Respondents/Defacto complainant

(Crime No.17 of 2018)

PRAYER :

Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the entire records in pursuant to the C.C.No.209 of 2019 for the alleged offences under Sections 498(A), 406, 294 (b), 506(1) of IPC and Section 4 of Dowry Prohibition Act, pending on the file of the learned Judicial Magistrate Court, Tambaram as illegal, unjust in the eyes of law.

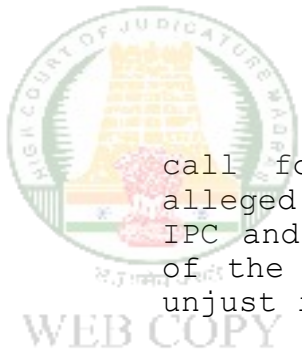
For Petitioners : Mr.A.Manojkumar

For Respondent No.1 : Mr.N.S.Sugunthan
Government Advocate (Crl.side)

for R-2 : Mr.S.Sathish Rajan

ORDER

This Criminal Original Petition has been filed seeking to



call for the entire records in C.C.No.209 of 2019 for the alleged offences under Sections 498(A), 406, 294 (b), 506(1) of IPC and Section 4 of Dowry Prohibition Act, pending on the file of the learned Judicial Magistrate Court, Tambaram as illegal, unjust in the eyes of law.

2. The petitioner prays to quash the proceedings on the ground that the trial Court ought to have considered that the defacto complainant had lodged the complaint after a lapse of 10 months of separation from the matrimonial home and the trial Court erred in taking cognizance of the case on file, the trial Court should have gone through the entire materials placed and on a thorough reading of all the materials available on record, it has to justify a reason for arriving at a conclusion that the complainant had made out a prima facie case against the petitioners herein. But, here, if at all the trial Court had gone through the records submitted by the petitioners that the complainant was never harassed by the petitioners and their family and it was only the de facto complainant who took a different stand in every proceedings, and all attempt of reunion with the 1st petitioner was neglected by her;

3. Further he also submit that the trial Court should have considered that the defacto complainant on her whims and fancies using the shield as well as the protection under the law had misused the same by remaining ex-parte in the family Court proceedings and choosing to file harassment complaint under the Dowry Prohibition Act, 1961, that too after a lapse of 10 months of separation from the 1st petitioner and the respondent also not at all enquired in this aspect. The suppression of the family court proceedings initiated by the 1st petitioner against the defacto complainant would clearly reveals the intention of the defacto complainant that he had cheated the court in connivance to harass the petitioners for no mistake of them and the investigating agency had also failed to look into this part

4. The learned counsel for the petitioner argued that object of the Criminal proceedings is to find out the truth and punish the guilty and protect the innocent. The tendency of the husband and his relatives is also not uncommon. The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the only basis of omnibus allegations unless specific instances of their involvement in the crime are made out. Accordingly he submit that the instant case is like one such case where the husband and his relatives were unnecessarily harassed. Hence, he prayed to quash the entire proceedings.

5. The learned counsel for the second respondent



raised objection stating that the marriage was performed in the year 2016 and the defacto complainant left the matrimonial home in the year 2017 due to the harassment made by her husband and his family members for demanding dowry. Thereafter, several mediation was held between the 1st petitioner and the defacto complainant, she was constrained to file an application for divorce before the IV Additional Family Court, Chennai in H.M.O.P.No.4186 of 2017 and the same is pending and this fact also admitted by the learned counsel for the petitioner. After the divorce proceedings, she also take steps to get back the jewels in Crl.O.P.No.3354 of 2021 pending before the III Additional Family Court, Chennai.

6. In reply, the learned counsel for the petitioner submits that the 1st petitioner was working in Singapore and he is no way connected with the allegations made.

7. Considering the dispute between the parties as also the fact that divorce was also granted, the question as to whether the allegation against the petitioners are true or not could be adjudicated after adducing oral and documentary evidence as it involves factual elements. Within ten months from her marriage, she was sent out from matrimonial home. On considering the primitive materials, the Magistrate satisfies and decides to initiate proceedings. No irregularity has been committed by trial Court. Hence, the petition as such is not maintainable in law and is liable to be dismissed.

8. The case is of the year 2019 and the trial Court is directed to dispose of the matter within a period of three months from the date of receipt of a copy of this order. The first petitioner is the husband of the defacto complainant and others are in-laws and they are residing at Tiruppur and their appearance before the trial Court is dispensed with and they shall appear before the trial Court as and when required.

9. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Tambaram.

2. The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai.

3. The Public Prosecutor
High Court Madras.

+3cc to Mr.S.Sathish Rajan, Advocate, S.R.No.501

Crl.O.P.No.23822 of 2019

PA (CO)
CT 21/03/2022