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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.25110 OF 2018

1.K.Pavithran
2.S.Krishnaswamy
3.K.Soundari

... Petitioners

Versus

K.S.Sindhu

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.69 of 2018 pending on the file of the Judicial Magistrate No.I, Erode and quash the same.

For Petitioners : Mr.P.Palaninathan

For Respondent : Mr.N.Manokaran

ORDER

This petition has been filed to call for the records in C.C.No.69 of 2018 pending on the file of the Judicial Magistrate No.I, Erode and quash the same.

2. The contention of the petitioners is that the respondent is the erstwhile wife of A1/first petitioner. The marriage between the first petitioner and the respondent took place on 02.07.2014 and out of the wedlock, a child was born on 01.05.2015. The respondent quarreled with the petitioners and she left the matrimonial home on her own on 08.03.2018. Thereafter, on 19.03.2018, the respondent along with her parents came to the petitioners' house and created ruckus and took away the vehicles, car and other articles and then, the first petitioner lodged a complaint to the All Women Police Station on 14.03.2018 and CSR.No.103 of 2018 was assigned and later First Information Report came to be registered and the case is pending against the respondent and her father. Subsequently, the



first petitioner filed a divorce petition in HMOP.No.84 of 2018 before the Sub-Judge, Thiruppur, on the ground of cruelty. Then, the respondent filed a petition in HMOP.No.189 of 2018 before the District Family Court, Erode, for Restitution of Conjugal Rights and also filed GWOP.No.3 of 2018 seeking custody of the child. Further added to it, she also filed a Domestic Violence case in DVA.No.7 of 2018 under Section 498 A and Section 4 of Dowry Prohibition Act, which is only to harass the petitioners. He further submitted that on the plain reading of the entire complaint, it is seen that the main allegation against A2 is that he is in the habit of drinking and A3 has frequently visited her relatives, which have been projected as harassment in the complaint. He further submitted that the reference about A2 and A3 no way constitute offence. Further there is no demand of dowry from the respondent.

3. The learned counsel for the respondent/complainant submitted that the marriage between the petitioner and the respondent and child birth are not disputed by them. But it is their case that the respondent had not voluntarily gone out of the matrimonial, but she was chased away by the petitioners and the child was retained by them. As a natural guardian, the child ought to have been with the mother, but the child is now with the father-in-law. Hence, the respondent filed G.W.O.P.No.3 of 2018 before the file of the Family Court, Erode and even though the respondent was permitted visitation rights, she was denied the same. Further, in the Family Court proceedings they projected that the respondent is suffering from Bipolar disease and it is not safe to allow the baby with the respondent. Pending proceedings, CRP.No.20 of 2021 was filed and the first petitioner herein filed I.A.No.2 of 2018 for sending the respondent for medical examination for Bipolar disease, test, which was dismissed, against which, CMA.No.2274 of 2019 was filed. In order to avoid the adverse inference, the respondent agreed for medical examination and as per the order of this Court dated 03.02.2022, the respondent was directed to submit herself for medical examination and the entire process to be completed within a period of 8 weeks. He further submitted that all the proceedings in two HMOPs and GWOP have been transferred and pending before the Family Court, Namakkal.

4. The learned Senior Counsel submitted that since it is a matrimonial dispute made against the petitioners and now, the trial has been commenced, he seeks permission to withdraw the petition and raise all the points during the trial.

5. In view of the same, this petition is dismissed as withdrawn with liberty to the petitioner to raise all the points before the trial Court.



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6. Accordingly, this Criminal Original Petition is dismissed as withdrawn with liberty to file a fresh petition.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Sub-Judge, Thiruppur.

2. The Judicial Magistrate No.I, Erode.

3. The Family Court, Erode.

+lcc to Mr.P.Palaninathan, Advocate, S.R.No.8601

CRL.O.P.No.25110 of 2018

MT(CO)

RLP(16/03/2022)