



Crl.OP.No.24965 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 14.06.2022	Date of Pronouncing Order 06.07.2022
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.OP.No.24965 of 2018

and

Crl.MP.No.14086 of 2018

1.Lekkaia Vaardiah, M/87 years/A3 (died)
S/o.Lekkala Krishnaiah

2.Uma, F/38 years/A4
W/o.Subbiah

3.Lekkala Parthasarthy, M/36 years/A5
S/oLekkala Vaardiah

All residing at
Lingaraj Agraharam Jalador
Mandalam, Kavali Taluk,
Andhra Pradesh.

4.Pepella Kishore,
S/o.Pepella Chenchia, M/40 years/A8
A-8 residing at Janata Pettah,
Kavali, Nellore District,
Andhra Pradesh.

... Petitioners

Vs.



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1.State represented by
Inspector of Police,
W-23, All Women Police Station,
Royapettai, Chennai 600 014.

2.Jyothilakshmi,
Wife of Srinivasarao,
Care of Mettala Malyathiri Naidu,
No.19, S.V.Koil Street,
Chennai 600005.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records pertaining to the proceedings in C.C.No.7573 of 2006 on the file of the learned Chief Metropolitan Magistrate, Allikulam, Chennai and quash the same.

For Petitioner : Mr.S.Vasu

For Respondents : Mr.C.E.Prathap (for R1)
Government Advocate (Cr1. Side)

R2 – No appearance

ORDER

The first Petitioner reported dead and hence proceedings against him is abated.

2.This Criminal Original Petition to quash the proceedings in C.C.No.7573/2006 on the file of the learned Chief Metropolitan Magistrate,



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Allikulam, Chennai followed by a Crime Number 8 of 2005 on the file of the 1st Respondent on the alleged commission of offences under Section 498(A), 494, 406, 506 (ii) of the Indian Penal Code and Sections 4 & 6 of the Dowry Prohibition Act.

3.This is the second quash petition, since earlier Petition was dismissed by this Court by an order dated 07.03.2008 in Crl.OP.No.6867 of 2007.

4.After hearing the learned counsel for the Petitioner and the learned Government Advocate (Crl. Side), this Court has seen that based on a complaint lodged by the defacto complainant viz., Joythilakshmi, the 1st respondent registered an F.I.R.No.8 of 2005 dated 23.12.2005 for the alleged commission of offence under Sections 498(A), 494, 406, 506(ii) of the Indian Penal Code and Sections 4 & 6 of the Dowry Prohibition Act and charge sheet was also filed under Section 173 (2) of Cr.P.C. before the Court below.

5.Learned counsel for the Petitioner would contend that with respect of similar set of circumstances, the Petitioners are already acquitted in C.C.No.640 of 2004, by the learned Additional Judicial Magistrate of First Class, Kavali,



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Andhra Pradesh on 21.08.2009 and hence, the trial of the very same offence is amount to double jeopardy and drawn my attention to the evidence given by the Defacto Complainant herein (wife) in the above said C.C.No.640 of 2004.

6.On perusal of the files, it is seen that on earlier occasion, the very same set of Petitioners have filed Criminal Original Petitions for quashing the proceedings on the ground of territorial jurisdiction and the same was considered by this Court and the was dismissed on 07.03.2008 vide CrI.OP.No.6867 of 2007. Now it is a second quash Petition, without any change of circumstances.

7.Learned counsel for the Petitioner time and again relied upon the order of acquittal passed by the learned Additional Judicial Magistrate of First Class, Kavali and the CrI. OP., Judgment as stated supra.

8.On perusal of the complaint, I find that the 2nd Respondent/Jyothilakshmi has preferred a complaint before the learned XVIII Metropolitan Magistrate at Saidapet, for registration of case for the offence under Sections 448, 452, 354 & 506 (ii) along with Section 494 IPC. The



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alleged criminal trespass and criminal intimidation are related to the alleged offences said to have been committed by these Petitioners at Triplicane on 10.08.2005. The complaint has been directed to be registered as an FIR, pursuant to the order passed by the learned XVIII Metropolitan Magistrate at Saidapet under Section 156(3) of Cr.P.C., All Women Police Station W-23, Royapettah had registered the case under Section 448, 354, 494 & 506(ii) r/w 120 (b) IPC and subsequently filed charge sheet has been taken on file as C.C.No.7573 of 2006. It is a specific allegation in C.C.No.7573 of 2006 that the 1st accused husband had married the 6th accused Sujatha during the subsistence of marriage with the defacto complainant herein and hence Section 494 has been included.

9.Learned counsel for the Petitioner would contend that some of the Petitioners are aged persons, the alleged commission of the offences is arising out of the matrimonial dispute, soon after the marriage and the second Petitioner herein is living in the state of Orissa from the year 1993. The 3rd Petitioner is in Hyderabad working in a private company. The 4th Petitioner, who was a lecturer in college, resigned, is not living in the matrimonial home are all factual things, that has to be elicited during the cross examination of



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LW1 (Defacto Complainant) and hence, I find that all the plea raised by the Petitioners herein are the matter for trial. The earlier criminal case which is said to have been ended in acquittal, does not related to the alleged incident that have been taken place in Triplicane at Chennai on 10.08.2015. The case ended in acquittal before the learned Additional Judicial Magistrate of First Class, Kavali is relating to different year and hence, I find that these two cases does not based upon the same set of facts, they are based on different set of facts and distinct offences has been alleged against the Petitioners herein and hence, there is no bar on the present case being tried judicially and hence, I am inclined to dismiss this Petition.

10.Liberty is given to the Petitioners, who are senior citizens to move appropriate application for dispensing their personal appearance before the Court below, on sufficient ground being made out, the same may be considered by the learned Judicial Magistrate, trying this case.

11.With these observations and direction, the Criminal Original Petition is dismissed. Consequently connected Miscellaneous Petition is closed.



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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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Note: Registry is directed to carryout necessary amendment in the cause title.

To

1.The learned Chief Metropolitan Magistrate,
Allikulam, Chennai.

2.The Public Prosecutor,
High Court,
Chennai 600 104.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Order made in

CrI.OP.No.24965 of 2018

and

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Dated: 06.07.2022