



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

CORAM:

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.OP (MD) NO.1878 of 2020

and

CRL.M.P (MD) Nos.920 and 921 of 2020

1.Lourd Selvaraj

2.Irudiya Jeyamary

3.Dharmaraj

4.Anthony Raj

5.Edwin

6.Arulrajan

:Petitioners/A2 to A7

.vs.

The State, by

1.The Inspector of Police,
Mukkudal Police Station,
Tirunelveli District.
(Crime No.93 of 2015)

: First Respondent/Complainant

2.Samuvel

:Second Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code praying this Court to call for the records pertaining to the C.C.No.34 of 2019, on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli District and to quash the same.

For Petitioners :Mr.D.S.Haroon Rasheed

For Respondent-1 :Mr.P.Kottaichamy
Govt.Advocate

For Respondent-2 :No appearance

**ORDER**

This Criminal Original Petition has been filed to quash the final report filed under Section 147, 120(b), 420, 294(b) and 506(ii) of IPC.

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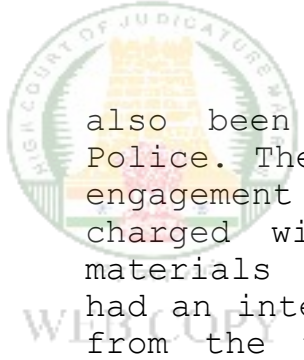
2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The crux of the charge as against the Petitioners is that the defacto complainant's daughter got engaged for marriage with A1. The engagement was on 18.1.2015. The marriage was proposed on 15.2.2015. Thereafter all the accused demanded more dowry. Thereafter when the defacto complainant questioned the accused No. 2 to 7, they abused the defacto complainant.

4. The contention of the learned counsel for the Petitioners is that though the defacto complainant's daughter was agreed to be given in marriage and the engagement was on 18.1.2015 and the marriage date was proposed to be on 15.2.2015, after engagement, the first accused went missing from the house stating that he did not want to marry the girl. Immediately, thereafter, the father of A1 lodged a complaint under the caption 'man missing'. The enquiry was conducted by the Deputy Superintendent of Police in this matter, in which, the defacto complainant received a sum of Rs.1 lakh in the presence of the Deputy Superintendent of Police towards the expenses that has been spent for the engagement. After that, the present complaint came to be filed, which has culminated into the lodging of First Information Report. Hence it is submitted that it is nothing but an abuse of process of law and the same has to be quashed.

5. The learned Government Advocate appearing for the first respondent submitted that the marriage was stopped due to the demand of more dowry and therefore, the complaint came to be lodged. The defacto complainant is the Sub-Inspector of Police. His daughter got engaged with A1. This fact is not in dispute. After engagement and before marriage, the groom went missing, who is A1. Though it is a case of man missing, complaint has been lodged with Police, which is also not in dispute. The records produced by the Petitioners would show that the Deputy Superintendent of Police, Cheranmahadevi was engaged in this regard and the enquiry was conducted before the Deputy Superintendent of Police, wherein, the defacto complainant received Rs.1 lakh towards the expenses of engagement and it is also signed by the defacto complainant. The above enquiry was conducted on 20.2.2015. After that, the present complaint is surfaced.

6. From the above materials, it can be easily concluded that the only grievance originally arise is towards the expenses that has been spent for the engagement by the defacto complainant, which has



also been already settled before the Deputy Superintendent of Police. Therefore merely because the groom did not like girl after engagement and went away, the entire family members should not be charged with the offence of cheating. Absolutely there is no materials available on the case records to show that this accused had an intention to deceive the defacto complainant or his daughter from the very inception. In the absence of deception from the inception to deceive either the defacto complainant or his the daughter, the charge under Section 420 will not be attracted. Therefore, the mere case of running from the house by the groom cannot presumed as an offence. Further to attract the offence under Section 294(b) and 506 of IPC., except general allegations, there is no other materials placed to attract the ingredients of the above offence also and the offence under Section 147 also will not be pressed into service, for the sake of charge.

7. In such view of the matter, continuing the prosecution is only a futile exercise and abuse of process of law. Accordingly the Criminal Original Petition is allowed and the case in C.C.No.34 of 2019, on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli District is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The District Munsif-cum-Judicial Magistrate,
Cheranmahadevi,
Tirunelveli District.



2.The Inspector of Police,
Mukkudal Police Station,
Tirunelveli Distrriect.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
CRL.OP (MD) NO.1878 of 2020
and
CRL.M.P (MD) Nos.920 and
921 of 2020
03.02.2022

PKP/12.03.2022/4P/4C