



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.3756 of 2020

and

Crl.M.P(MD)No.2050 of 2020

WEB COPY

- 1.K.Parameswari
- 2.K.Sathish Kumar
- 3.Bose @ Selvaraj
- 4.Seenivasan @ Seeniyappa
- 5.Dhanalakshmi
- 6.Mariyappan

... Petitioners 1 to 6/
Accused Nos.2, 3, 5 to 8

Vs.

- 1.The State,
Represented by,
The Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District.

... 1st Respondent/Complainant

- 2.Gokilavani

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records/FIR pertaining to Crime No.2 of 2020 on the file of first respondent and quash the same.

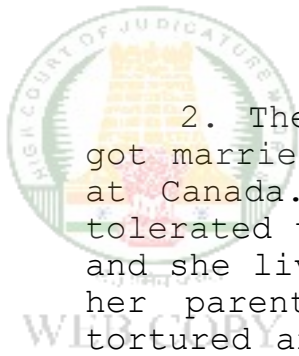
For Petitioners : Mr.B.Rooban

For R - 1 : Mr.B.Thanga Aravind
Government Advocate (Crl. Side)

For R - 2 : Mr.A.Haja Mohideen

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.2 of 2020 on the file of the first respondent for the offence under Section 498A of I.P.C as against 8 accused persons, in which, the petitioners are arrayed as Accused Nos.2, 3, 5, 6, 7 and 8.



2. The second respondent lodged a complaint alleging that she got married with the first accused on 21.08.2016 and he is working at Canada. After her marriage, she lived with her in-laws. She tolerated the cruelty committed by the family members of her husband and she lived with them for one year and thereafter, she had gone to her parents house. Even then, through phone the first accused tortured and harassed the second respondent. Thereafter, the family members failed to inform whenever the first accused visited his house, therefore, she could not able to meet her husband and all the family members are roped into this case.

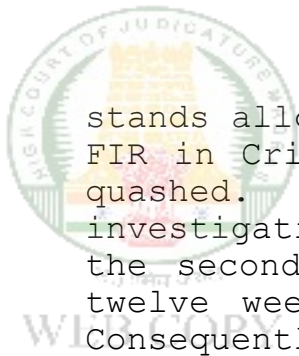
3. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

4. On a perusal of the records revealed that the first accused, namely, the husband of the second respondent, has filed a petition for restitution of conjugal rights in H.M.O.P.No.133 of 2019 on the file of the Subordinate Court, Devakottai and it is pending. In the said petition, the first accused averred that the second respondent had refused to have physical relationship with him and also refused to come with him to Canada.

5. While pending the petition for restitution of conjugal rights, the second respondent has filed a petition for divorce in H.M.O.P.No.140 of 2019 on the file of the learned Sub Judge, Devakottai and it is also pending. In the said petition, she alleged that the first accused is an impotent, as such, there is no possibility of living together. In the divorce petition, she also sought for compensation to the tune of Rs.50,00,000/-. While pending the matrimonial dispute, the present complaint has been lodged as against the husband of the second respondent and all the family members and the same has been registered in Crime No.2 of 2020 for the offence under Section 498A of I.P.C.

6. On a perusal of the entire F.I.R, there is no allegation and overt act as against the petitioners. In fact, there is no allegation in the divorce petition as against the petitioners herein. The only allegation against them is that they failed to inform about the visit of the first accused to India. It is totally vague, bald and abuse of process of law. In fact, after institution of family dispute proceedings before the Sub Court, Devakottai, the present complaint has been lodged by the second respondent. There is no ingredients to attract the offence under Section 498A of I.P.C as against the petitioners and as such, the FIR registered as against the petitioners has no legs to stand further.

7. In view of the above, the complaint cannot be sustained as against the petitioners and it is liable to be quashed as against the respondents alone. Accordingly, this Criminal Original Petition



stands allowed as against the petitioners alone and as a sequel, the FIR in Crime No.2 of 2020 on the file of the first respondent, is quashed. The first respondent is directed to complete the investigation as against the first accused, namely, the husband of the second respondent and file a final report within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps

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 Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.B.ROOBAN, Advocate (SR-6163[F] dated 15/02/2022)

Crl.O.P(MD)No.3756 of 2020

14.02.2022

MGJ(01.03.2022) 3P 4C