



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2022

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.4669 of 2022
and
Crl.M.P (MD) No.3294 of 2022

1.Sindhana Arasu
2.Jeyam
3.M.Seeman Jegadeesh

...Petitioners

Vs.

1. The State represented by
The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai District.
(Crime No.2053 of 2021)

2. The State rep. by
The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
(Crime No. 2053 of 2021)

3. Chella Meenakshi

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the FIR in Crime No. 2053 of 2021 which is registered on the file of 2nd respondent and being investigated by 1st respondent and quash the same as illegal.

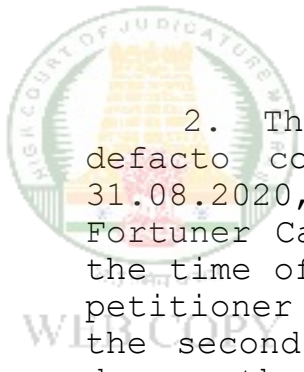
For Petitioner: Mr.R.Anand

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

For R2 : Mr.Niranjana S. Kumar

ORDER

This Criminal Original Petition has been filed to quash the first information report in Crime No. 2053 of 2021 on the file of the second Respondent.



2. The prosecution case is that the marriage between the defacto complainant and the first petitioner was solemnized on 31.08.2020, that her father has given 250 sovereigns of jewels, Fortuner Car, one house property and landed property as sridhana at the time of marriage, that two months after the marriage, the second petitioner and her mother-in-law and the third petitioner brother of the second petitioner had started harassing her and demanded more dowry, that both of them had directed the complainant to get two house properties owned by the complainant's father, that in December 2020, the complainant became pregnant and after seeing the scan report, they have found that the child was not having heart beatings, that when the same was informed to her husband family, they had taken her to Padiyarajan clinic and directed her to abort the child, that after abortion, they have taken the complainant to the her mother's house and left her there, that they have threatened the complainant not to come to their house, that on believing the words of the petitioners 2 and 3, the first petitioner had been harassing her continuously, that all the petitioners have been demanding the complainant to consent for divorce and that due to harassment and mental agony suffered the complainant had taken rat poison and she was admitted in the hospital. In that regard a case in Crime No.2053 of 2021 was registered against the petitioners under Sections 309 and 109 IPC.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the second respondent police registered a case in Crime No.2053 of 2021 for the offences under Sections 309, 109 IPC, as against the petitioners.

4.The learned Government Advocate (Crl.Side) would submit that the investigation is almost completed and the respondent police are about to file the final report before the concerned court.

5.Heard both sides and perused the materials available on record.

6.It is seen from the first information report that there are specific allegations as against the petitioners, which have to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.05.2019 in Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., as follows:-



"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused.

On the 11 complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the



ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

8. That apart, the petitioners already filed a petition before this Court in Crl.OP(MD)No.20337 of 2021, to quash the proceedings in Crime No.2053 of 2021, on the file of the second respondent and the same was dismissed by this Court on 20.12.2021. Though, the petitioners mentioned the same in this petition also, seeking quash for the second time, is not maintainable second time, since the same was already decided on merits.

9. In view of the above discussion, this Court is not inclined to quash the first information report. Hence this Criminal Original Petition stands dismissed. However, the second respondent police is directed to complete the investigation and file a final report before the concerned Magistrate, 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 (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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,
Thallakulam, Madurai District.
2. The Inspector of Police,
Anna Nagar Police Station, Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.NIRANJAN S KUMAR, Advocate (SR-14992[F] dated 28/03/2022)

ORDER IN
Crl.O.P. (MD)No.4669 of 2022 and
Crl.M.P (MD) No.3294 of 2022
25.03.2022

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