



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) No.5288 of 2022

and

Crl.M.P (MD) No.3754 & 3756 of 2022

WEB COPY

- 1.Chakravarthi
- 2.P.Chokkar
- 3.C.Rajammal
- 4.Malar
- 5.Sugapriya
- 6.Anjugam

... Petitioners

Vs.

1. The Inspector of Police,
Thirumangalam All Women Police Station,
Thirumangalam, Madurai District.
(Crime No.33 of 2013)

2. Vidhya

... Respondents

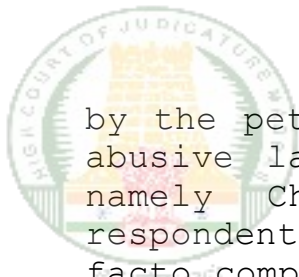
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and quash the charge sheet filed against the petitioners in C.C No.123 of 2014 on the file of the Judicial Magistrate, Thirumangalam in respect of Crime No.33/2013 on the file of R1 police.

For Petitioner	:	Mr.G.K.Chitradevi
For Respondent	:	Mr.R.M.Anbunithi
No.1		Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in C.C No.123 of 2014 on the file of the Judicial Magistrate, Thirumangalam

2. The case of the prosecution is that the de-facto complainant was married with A1, Chakkaravarthy, petitioner herein on 24.05.2010 and at the time of marriage the petitioners family was provided with house hold articles worth about Rs.2,00,000/- along with 50 sovereigns gold chain and 3 sovereigns of gold chain to the Chakkaravarthy. Further, he also started to abuse the de-facto complainant and when the same was reported to the petitioners they told the 2nd respondent that only for the purpose of marriage it was informed that he is working, as you hail from poor background the 2nd respondent must do what the petitioners say. But at one point of time, the de-facto complainant was asked



by the petitioners to get more dowry and started to scold her in abusive language. While being so, on 07.05.2013 the 1st accused namely Chackravathy and his family members tortured the respondent 2 to get Rs.5,00,000/- for additional dowry and the de-facto complainant went to her maternal home and thereafter she was asked to give dowry of Rs.5,00,000/-. Hence, a complaint was lodged and FIR came to be registered in Crime No.33/2013 dated 03.07.2013, subsequently charge sheet was also filed and taken on file in C.C.No.123/2014 under section 498 (A), 406 & 294(b), 506 (i) of IPC and 4 of TNPWH Act.

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.

4.The learned Additional Public Prosecutor would submit that the trial has been commenced and some of the witnesses have been examined in this case.

5.Heard the learned counsel appearing on either side.

6.That apart the petitioners have already filed a quash petition before this Court in Crl.O.P(MD) No.1930 of 2015 and the same was dismissed for default. Again the petitioners have approached this Court for the same relief to quash the proceedings in CC No.123 of 2014. The learned counsel for the petitioners would submit that already entire jewels and house hold articles were returned by the first accused and thereafter the second respondent also got married another man and living happily and the first petitioner also married another lady and living happily, hence this Court is of the view that it is not the ground to quash the entire proceedings as against the accused persons.

7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, wherein it has been held as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not

in Section 482 Cr.P.C. proceedings.



13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

WEB COPY

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in **Crl.A.No.1572 of 2019** dated 17.10.2019 in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

9. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.



13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C No.123 of 2014 on the file of the Judicial Magistrate, Thirumangalam. The petitioners are at liberty to raise all the grounds before the trial Court. It is also seen that the third petitioner died and the entire charge against the third petitioner stands abated. In so far as the petitioners 2,4,5 and 6, the personal appearance is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 2,4,5 and 6 shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to complete the trial within a period of three months from the date of receipt of copy of this Order.

10. Accordingly, this criminal original petition is dismissed. Consequently, Crl.M.P(MD) No.3754 of 2021 stands dismissed and the Crl.M.P(MD) No.3756 of 2022 partly allowed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

aav

To

1. The Judicial Magistrate, Thirumangalam
2. The Inspector of Police,
Thirumangalam All Women Police Station,
Thirumangalam, Madurai District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai

Crl.O.P.(MD) No.5288 of 2022

22.03.2022

USK/30.03.2022/4P/4C

<https://hcservices.ecourts.gov.in/hcservices/>