



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.5588 of 2022

&

Crl.M.P(MD)Nos.3966 & 3969 of 2022

1. Kathirvel Murugan
2. Saroja
3. N.Vairamani
4. Manonmani

... Petitioners/
Accused Nos. 1 to 4

Vs.

M.Keerthika

... Respondent/
Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in the case in C.C No. 124 of 2020, on the file of the Additional District Munsif-cum-Judicial Magistrate Court, Manamadurai and to quash the same as illegal and in violation of law.

For Petitioners : Mr.M.Jothi Basu

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C No. 124 of 2020, on the file of the Additional District Munsif-cum-Judicial Magistrate Court, Manamadurai.

2. The case of the prosecution is that on 14.09.2016, the marriage took place between Kathirvel Murugan and Keerthika at Unnamalai Marriage Hall, Manamadurai by following the Hindu Rights and customs. It is stated that at the time of marriage, the parents of the respondent gave 35 sovereigns of gold jewels and house-hold articles worth about Rs.3,00,000/- (Rupees Three Lakhs only) as dowry. Out of happy wedlock on 18.01.2018, the respondent herein had given birth to a male child. It is stated that the second petitioner is the mother-in-law and the petitioners 3 and 4 are the sister-in-law of the respondent. It is alleged that the accused have inflicted cruelty upon the respondent demanding more dowry. The accused have driven out the respondent from the matrimonial home. It is alleged that the accused have attacked the respondent, when she was living in the matrimonial home.



3. It is also submitted that on 13.07.2020, the respondent herein has submitted a complaint before All Women Police Station, Manamadurai to take action against six persons. The Police had received a complaint and issued a receipt. The CSR Number is 150/2020. The Police did not take any steps to register the FIR. Therefore, on 17.09.2020, she has filed a complaint under Section 156(3) Cr.P.C before the learned Judicial Magistrate Court, Manamadurai. The learned Judicial Magistrate treat the complaint as it is filed under Section 200 Cr.P.C, recorded the respondent's sworn statement on 21.10.2020. The Judicial Magistrate Court, Manamadurai took the case on file in C.C.No.124 of 2020 under Sections 324, 498(A) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and directed to issue summon to the petitioners herein. The petitioners have entered appearance in the case, through their counsel. It is also submitted that the petitioners have no other alternative efficacious remedy other than filing the present quash petition.

4. 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 first respondent Police registered a case as against the petitioners and the same has been taken cognizance in C.C.No.124 of 2020, on the file of the learned Additional District Munsif-cum- Judicial Magistrate Court, Manamadurai. Hence they prayed to quash the same.

5. 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.***, 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.

6. 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."

7. 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.



WEB COPY

.....

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.

8. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C No. 124 of 2020 on the file of the Additional District Munsif cum Judicial Magistrate Court, Manamadurai. The petitioners is at liberty to raise all the grounds before the trial Court. However, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioners 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 nine months from the date of receipt of a copy of this Order.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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 Additional District Munsif cum
Judicial Magistrate Court,
Manamadurai.

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



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

Copy to

WEB COPY

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-14768[F] dated
28/03/2022)

Crl.O.P(MD)No.5588 of 2022

&
Crl.M.P(MD)Nos.3966 & 3969 of 2022
25.03.2022

TP (CO)
RK(22/04/2022) 5P 5C