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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.5850 of 2022

and

Crl.M.P(MD) No.4137 of 2022

1. Manikandan
2. Kandhavel
3. Muthulakshmi
- 4.Vennila

...Petitioners/Accused 1 to 4

Vs.

1. The State Represented by
The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai District.
(Crime No.56 of 2021)

...Respondent/Complainant

- 2.Logambal

...Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to to call for the entire records pertaining to the case in Crime No.56 of 2021 pending on the file of the Inspector of Police, All Women Police station, Thallakulam, Madurai District and quash the same as against the petitioner.

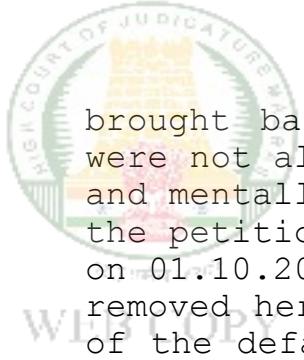
For Petitioners : Mr.R.Anand

For Respondent : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to quash the proceedings in Crime No.56 of 2021 pending on the file of the Inspector of Police, All Women Police station, Thallakulam, Madurai District

2.The case of the prosecution is that 08.09.2011 after meeting out the demand of dowry namely 70 sovereigns of gold, cash of Rs.5,00,000/- her marriage took place with the first petitioner at Trichy. From 2017 to 2018, she was with her husband in his working place at Punjab. During that period, she was coerced to bring additional dowry of 30 sovereigns of gold jewels and cash of Rs.3lakhs, for which she has been subjected to physical assault. Thereupon coming down to in-laws house her entire jewels have been



brought back by the petitioners from her custody and her parents were not allowed to see her. In view of the same, she was physically and mentally upset, though she was admitted in the hospital, none of the petitioners have taken care. Thereafter she has lodged complaint on 01.10.2021 and on knowing the same, the first petitioner forcibly removed her holi thread. When the same was questioned by the father of the defacto complainant the petitioners herein threatened them, hence the present case came to be registered.

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 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 allegation as against the petitioners, which has 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 **12.02.2019 - Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.**, where in it is held 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.

6.....

7.....

8.....

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. Criminal 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. Further on the petition filed by the second respondent herein in CrI.O.P(MD) No.5738 of 2022, this Court has directed the first respondent to complete the investigation and file the final report in Crime No.56 of 2021 within the stipulated time.

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 petitioners are at liberty to produce all the relevant documents before the first respondent during investigation and on receipt of the same, the first respondent police is directed to complete the investigation and file



final report before the concerned Magistrate, as directed by this Court in Crl.O.P(MD) No.5738 of 2022. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2022
Sub Assistant Registrar(CS)

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To

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

+1 CC to M/s.R.ANAND, Advocate (SR-16162[F] dated 01/04/2022)

Crl.O.P.(MD) No.5850 of 2022
and
Crl.M.P(MD) No.4137 of 2022
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MGJ(07.04.2022) 4P 4C