



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.1734 of 2019

and

Crl.MP(MD)No.929 of 2019

WEB COPY

1.David Prabhakar
2.Muthu
3.Inpamani
4.Rajathi
5.Raja
6.Johnraja @ Chinnathambi
7.Joss Stella : Petitioners/A1 to A7

Vs.

1.The Inspector of Police,
All Women Police Station,
Karaikudi,
Sivagangai District. : R1/Complainant
(Crime No.19 of 2015)

2.Jayanthirani : R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to CC No.211 of 2016 on the file of the Judicial Magistrate, Karaikudi and quash the same.

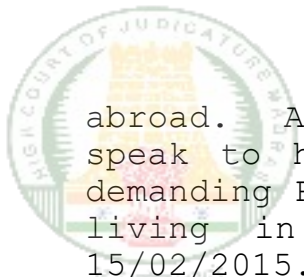
For Petitioners	:	Mr.S.Poornachandran
For 1 st Respondent	:	Mr.P.Kottai Chamy Government Advocate (Criminal side)
For 2 nd Respondent	:	Mr.P.Manikandan (Legal Aid Counsel)

ORDER

This petition has been filed seeking quashment of CC No.211 of 2016 pending on the file of the Judicial Magistrate, Karaikudi.

2.The case of the prosecution in brief:-

The de-facto complainant married A1 namely David Prabhakar, on 05/09/2016. After the marriage, they lived in a joint family along with in-laws. Later, the first accused received Rs.1 lakhs from her parents to go abroad. Again by demanding more money, she was harassed and assaulted. Within 15 days of the marriage, he went



abroad. At the instance of the other accused persons, A1 did not speak to her. Later, she was driven out of the matrimonial home demanding Rs.1 lakh as dowry. But for the past five year, she was living in the parental home. So she lodged a complaint on 15/02/2015. But no proper action was taken. On 12/04/2015 at about 11.00 am, when she was walking in the street, the co-accused persons assaulted her. She was also criminally intimidated. With the above said allegations, she filed a petition before the Judicial Magistrate, Karaikudi. Based upon which, the case has been registered and after completing the formalities of investigation, final report was filed against all the accused persons charging them for the offences under sections 323, 498(A)IPC r/w section 4 of Tamil Nadu Prohibition of Women Harassment Act.

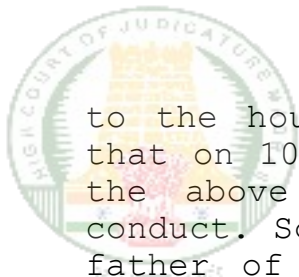
3. Seeking quashment of the same, this petition is filed by all the accused persons on the ground that the de-facto complainant filed a complaint against one Muthu stating that she married the above said person on 04/01/2015 at Velankanni. Based upon which, the case in CC No.238 of 2018 has been registered and now, it is pending before the Judicial Magistrate, Karaikudi. So the marriage as stated by the de-facto complainant along with the first petitioner is a false one.

4. Since the second respondent has not appeared in spite of receipt of notice, Legal Aid counsel was appointed and both sides were heard.

5. The entire CD with regard to Crime No.04 of 2018 and Crime No.19 of 2015 has been called for and perused.

6. From the perusal of the CD files, in both the matters, this court is not in a position to appreciate and understand the attitude and conduct of the de-facto complainant. Her attitude and conduct has been recorded in the form of statement of the father of the de-facto complainant, which is available in CD file. From the statement of the father of the de-facto complainant, it appears that against their desire and advise, the de-facto complainant married the first accused and later, trouble has arisen between them and the first petitioner left India and he was sending money to the de-facto complainant. She is also making trouble not only to the parents, but also the neighbours and in the working place also. Repeated advise did not have any effect upon the conduct of the de-facto complainant. So this is the nature and conduct of the de-facto complainant.

7. It is further seen that according to the de-facto complainant, she married the first petitioner, on 05/09/2014 at Meenakshi Amman Temple and thereafter, they resided as husband and wife. Upto December 2015, the first petitioner was sending money from abroad and thereafter, did not. When she was residing in the services to go home, she was assaulted by the co-accused on the way back



to the house. It is the further case of the de-facto complainant that on 10th December 2015, she met with an accident and because of the above said accident, the first petitioner disconnected his conduct. So during the course of investigation, as stated above, the father of the de-facto complainant by name Manickam has given a statement. So this was her case in so far this criminal original petition is concerned. The complaint was given by her on 20/04/2018 and the date of occurrence was stated to be from 04/01/2015. She gave a complaint against one Muthu stating that on 14/1/2015, the said Muthu married her and thereafter, she was harassed and criminally intimidated and the said Muthu has also extorted 15 sovereigns of gold jewels and Rs.10,00,000/- and later, she gave a statement that she wrongly mentioned the date of marriage and the actual date of marriage is 04/03/2016. So how, she married the above said Muthu during the subsistence of the marriage with the first petitioner is not known. More-over, from the perusal of the CD file, in both cases, computer print out invitations are seen. But this clearly shows that she was making complaint against not only the parents, but also others. Even during the subsistence of the marriage of the de-facto complainant with A1, she married one Muthu as mentioned above. So the date of occurrence, in both the matters, overlap. So what actually was the trouble that was made by the first petitioner is not understandable. It is nothing, but abuse of process of law and court and by utilising her position, it appears that she has given the complaint against the first petitioner as well as the above said Muthu stating that they are husbands and they have harassed her. So on the sole ground, it is seen that it is inherently improbable and mutually destructive. So the continuation of criminal proceedings against the petitioners will amount to abuse of process of court and law. More-over, as mentioned by the father of the de-facto complainant, only the attitude on the part of the de-facto complainant has caused trouble to all. So the entire proceedings is liable to be quashed.

8. In the result, this criminal original petition stand **allowed**. The entire proceedings in CC No.211 of 2016 on the file of the Judicial Magistrate, Karaikudi, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

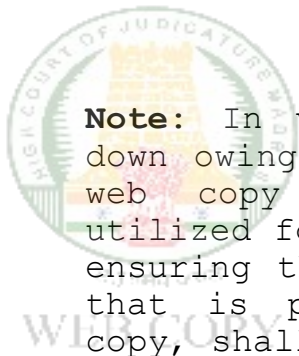
Assistant Registrar (As)

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Sub Assistant Registrar (CS)

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

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KB(27.04.2022) 4P 4C