



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:18/04/2022

CORAM:

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THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.3775 of 2019

and

Cr1.MP(MD)No.2213 of 2019

1.Thameem Ansari Sah
2.Mansoor Ali
3.Jannath Ayisha
4.Jailani Beevi
5.Jesima

... Petitioners/A1 to A5

Vs.

1.State represented by
The Inspector of Police,
AWPS-Pudukottai,
(Crime No.2 of 2018)

2.Mrs.Aafreen

... Respondents/Complainants

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in CC No.7 of 2019 pending on the file of the Judicial Magistrate No.1, Pudukottai and quash the same.

For Petitioners : Mr.M.Ajmal Khal
for M/s.Ajmal Associates

For 1st Respondent : Mr.SS.Madhavan
Government Advocate(Cr1. side)

For 2nd Respondent : Mr.K.Arunraj

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.7 of 2019 pending on the file of the Judicial Magistrate No.1, Pudukottai.

2.The case of the prosecution in brief:-

The marriage between A1 and the de-facto complainant, who is the second respondent herein was performed, on 14/07/2010 at SAK Marriage Hall, Pudukottai, as per their religious customs. At the time of marriage, 100 sovereigns of gold jewels, Rs.5,00,000/- cash and Rs.5,00,000/- worth house articles were also provided. Even at the time of engagement, trouble was created by the accused persons demanding more dowry and cash. After the marriage, both of them living in Chennai as joint family. Even after the marriage, they started harassment, ill-treating the de-facto complainant. The first accused is having illegal contact with so many women and because of that, the de-facto complainant suffered depression. At the instance of the 2nd accused, all the other accused persons, harassed her demanding dowry. On 25/12/2016, the accused 3 and 4 forced the de-facto complainant out of the matrimonial home. After that, there was a compromise between the parties and separate residence was arranged, in which the de-facto complainant and the first accused started living separately. Even at that time, again the first accused started harassing her demanding Rs.50,00,000/-. Unable to bear the cruelty and harassment, she lodged a complaint before the Egmore Police station, on 28/01/2017, which was registered in CSR No.17 of 2017. Again there was a compromise between the parties. After the compromise, again even in front of the police station, the accused persons started harassing her demanding money. After that, the de-facto complainant came to the parental home. The accused persons also having custody of the gold jewels and the house articles worth about Rs.5,00,000/-. Based upon the complaint given by the de-facto complainant, the case in Crime No. 2 of 2018 was registered for the offences under sections 498(A), 406, 506(i) IPC and section 4 of Dowry Prohibition Act and after completing the formalities of investigation, final report was filed in CC No.7 of 2019 and it has taken cognizance by the Judicial Magistrate No.1, Pudukottai.

3. Seeking quashment of the same, all the accused persons are before this court

4. Heard both sides.

5. It is a case of matrimonial dispute. The learned counsel appearing for the petitioners, at the time of argument, would submit that he is not pressing this petition in respect of the first petitioner/A1 is concerned and in so far as the other petitioners are concerned, the matter can be decided on merits. He would further submit that even as per the allegation made in the FIR, within three months of the marriage, they put up a separate residence in Chennai. A complaint was given by the de-facto complainant before the Egmore Police Station and as stated in the complaint, the matter has been compromised between the parties. According to him, absolutely, there is no harassment or cruelty at



the hands of the petitioners 2 to 5, since they are living in far away place.

6. It is the case of the 2nd respondent that strong allegation has been made against the petitioners 2 to 5 and they must be directed to undergo the trial process. According to her, absolutely, no ground is available to quash the proceedings.

7. Now it is seen that the petitioners 2 and 3 are the parents of A1 and 4th petitioner is the grand-mother of the first petitioner and the 5th petitioner is the sister. All of them have been roped in the matrimonial issue, that took place between the first petitioner and the 2nd respondent herein. Even as per the allegations made in the FIR, it is seen that on the earlier occasion, there was a compromise between the husband and the wife and they have started living separately and now, according to the 2nd respondent, the last incident took place, when she was driven out of the house, over which on 28/01/2017, enquiry was undertaken in CSR No.17 of 2017. There was a compromise in the police station. But soon after, even in front of the police station, all the accused persons joined together and criminally intimidated demanding dowry. When there was a compromise between the husband and wife and when they were started living separately, the question of harassment and cruelty must be viewed suspiciously.

8. In respect of the complaint that was given in CSR No.17 of 2017, the copy of which is made available in the typed set of papers, enquiry was undertaken and at that time, the second respondent has stated that since she is residing in Pudukottai, she will settle the issue there. On that ground, it was closed, on 14/07/2017. But she has not preferred any complaint before the jurisdictional police. Instead, she filed a petition under section 156(3) Cr.P.C before the Judicial Magistrate, Pudukottai, on 25/07/2009. Based upon which only, a direction was issued, over which, the present complaint has been registered, wherein she has stated that after compromise, she started living in her sister house from 22/01/2017.

9. It is the allegation that they started living on 28/01/2017. The second respondent filed a complaint before the Egmore Police station, where the first accused was advised to behave properly. Since in the report, it has been stated that it is, dated 19/01/2017. Now whatever it may be, there are some contradictions with regard to the above said incident of harassment, which allegedly took place in front of the Egmore Police station. Later the second respondent filed O.S No.51 of 2018 before the District Munsif, Pudukottai, for divorce. The plaint is verified in the month of March 2018 and the petition under section 156(3) Cr.P.C was filed on 13/05/2018. Whether divorce has been granted or not, no particulars are available.



10. In the light of the factual particulars, let us go back to the averments. As mentioned earlier, it is the allegation of the 2nd respondent is that at the instigation of A1, A2 to A5 started harassment and criminal intimidated her.

11. The learned counsel appearing for the petitioners would straight away rely upon the judgment in the case of Preeti Gupa and another Vs. State of Jharkhand **(2010) 7 SCC 667**, which was followed by the later judgments also, wherein the Hon'ble Supreme Court has cautioned not only the police, but also the court dealing with the matrimonial issue to be more careful, while dealing with the matrimonial issue, which involves in-laws also. The Hon'ble Supreme Court is of the view that there is every possibility of wife to implicating the in-laws also for the purpose of settling the score.

12. During the course of investigation, the Social Welfare Officer also undertaken the conciliation process, wherein the second respondent has stated that she is not willing to live with the first petitioner. Since she has suffered mentally and physically, she wants to pursue the issue under the provision of Protection of Women from Domestic Violence Act. It appears that the report has also been sent to the concerned court.

13. At one point of time, the second respondent was willing to live with A1. At that time, she has stated that only at the instance of the second petitioner, who is the mother of A1, trouble arose between them. But later, she appears that she changed her mind. But in the pending suit, she has not taken any steps or file any petition seeking the return of the articles and jewels.

14. So perusal of the entire file, which has been called for from the court concerned as well as on hearing, the parties, it is seen the main dispute is only between A1 and the second respondent and only bald allegation has been made, as usual, against the in-laws by the second respondent.

15. In the light of the factual position and circumstances of the case, I am of the considered view that the petitioners 2 to 5 may be discharged from the criminal case. But the first petitioner/A1 can face the criminal trial by applying the **Preethi Guptha's** case.

16. In the result, this criminal original petition is **allowed in respect of the petitioners 2 to 5** and the impugned proceedings in CC No. 7 of 2019 on the file of the Judicial Magistrate No.1, Pudukottai, is quashed against them. In respect of the **1st**



petitioner/A1, this criminal original petition is dismissed.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

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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 NO.1,
PUDUKOTTAI.
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PUDUKOTTAI.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.AJMAL ASSOCIATES,Advocate
(SR-19268[F]dated 19/04/2022)

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SP/06/05/2022/5P/5C