



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED:29/03/2022  
CORAM:

**THE HON'BLE MR JUSTICE G.ILANGO VAN**

WEB COPY

Crl.O.P.(MD)No.6622 of 2019  
and  
Crl.MP(MD)Nos.4424 and 4425 of 2019

Saravana Ponmuthu

... Petitioner/Accused No.1

**Vs.**

State rep. By

1.The Inspector of Police,  
All Women Police Station,  
Ambasamudram,  
Tirunelveli District.  
(Crime No.04 of 2017)

... 1<sup>st</sup> Respondent/Complainant

2.Isai Selvi

... 2<sup>nd</sup> Respondent/De-facto  
complainant

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to quash the case in CC No.104 of 2019 pending on the file of the Judicial Magistrate, Ambasamudram, Tirunelveli District.

For Petitioner : Mr.N.Mohideen Basha

For 1<sup>st</sup> Respondent : Mr.P.Kottai Chamy  
Government Advocate (Crl.side)

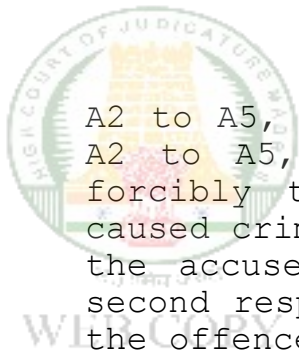
For 2<sup>nd</sup> Respondent : Mr.P.Balasubramanian

### **O R D E R**

This criminal original petition is filed seeking quashment of the case in CC No.104 of 2019 on the file of the Judicial Magistrate, Ambasamudram, Tirunelveli District.

#### **2.The case of the prosecution in brief:-**

The marriage between the de-facto complainant and the A1 was performed, on 15/09/2017 as per the customary rites. As usual, jewels, house-hold articles were provided. After that, she was living in the matrimonial home in a joint family. Right from the beginning, A2 to A5 insisted A1 to harass her. Later, they shifted their residence to Bangalore. Even in Bangalore, at the instance of



A2 to A5, A1 assaulted her. When that was brought to the notice of A2 to A5, they also abused her in filthy language and she was forcibly taken from Ambasamudram and she left there. They also caused criminal intimidation. All the articles have been retained by the accused persons. On the basis of the complaint given by the second respondent, a case in Crime No.14 of 2018 was registered for the offences under sections 498(A), 294(b), 109, 406 and 506(i) IPC. After completing the formalities of investigation, final report has been filed in CC No.104 of 2019 and it has taken cognizance by the Judicial Magistrate, Ambasamudram.

3. Seeking quashment of the final report, A1 namely the husband has filed this petition mainly on the ground that on 29/03/2018, the grand father of the de-facto complainant died at Kadayanallur and this petitioner was not in a position to attend the same because of his work pressure. Later, on 01/04/2018, both of them came to Kadayanallur and the parents of the de-facto complainant refused to send the de-facto complainant to Bangalore and in spite of best efforts, the second respondent has not joined him. So, he filed HMOP No.109 of 2018 for restitution of conjugal rights against the 2<sup>nd</sup> respondent. Thereafter, there was no proper response or steps. Apart from that, a plea of alibi is also made in the petition.

4. Heard both sides.

5. It is a matrimonial dispute between the husband and wife. It is the allegation of the de-facto complainant that this petitioner committed cruelty, harassment, demanding dowry etc. In the FIR as well as in the final report, it is the specific allegation to the effect that at the instance of the co-accused namely A2 to A5, this petitioner also harassed, assaulted and also demanded some dowry, money etc.

6. The learned counsel appearing for the petitioner would submit that within three months from the date of the marriage, she went out of the matrimonial home and she refused to join with him in spite of persistent request.

7. Whether there is any cruelty, demand of dowry and harassment, can be a matter during the course of trial. So, this court is not expressed any view with regard to the allegation of demand of dowry, etc. However, the petitioner would submit that on the alleged date of occurrence, he was not available in that place and he was away in Bangalore and for that purpose, he has produced two documents. He would further submit that trouble has arisen between the parties, when the petitioner was not in a position to attend the funeral ceremony of the grand father of the de-facto complainant, because of his work pressure and later, they came to Ambasamudram after 15 days only and at that time, trouble has arisen. This fact cannot be considered by this court at this stage.



8.The marriage was performed, on 15/09/2017. The KPN Travels bus ticket shows that they went to Ambasamudram to Bangalore, on 29/09/2017. After attending the funeral ceremony, they went to Bangalore, on 03/04/2018. When this petitioner only alleged to have been travelled to Bangalore from Ambasamudiram, because he got appointment order, on 04/04/2018 from Maxlife Insurance Company and he was about to join the Company. He joined the service, on 05/04/2018 at Bangalore and the further documents shows that he has withdrawn money from a ATM in Bangalore, on 04/04/2018. So from these documents, the learned counsel appearing for the petitioner wants this court to quash the proceedings on the ground that the allegations mentioned in the FIR as well as the final report would not have taken place at all.

9.Finding that it is a matrimonial dispute between the parties for exploring possibility of settlement, it was referred to mediation centre. But in the mediation, it could not be settled for one or other reasons.

10.The learned counsel appearing for the second respondent would submit that since there is a specific allegation against the petitioner, the veracity of these things can be found out only during the course of trial and no overtact from the case has been made out. More over, the alibi plea cannot taken in a proceedings under section 482 Cr.P.C.

11.The learned Government Advocate (Criminal side) would submit that two witnesses have been examined before the trial court. Since already criminal proceedings have been commenced and two witnesses were examined, at this stage, I am of the considered view that it is not proper on the part of this court to go into the veracity of the complaint and the alibi, plea that has been taken by the petitioner.

12.No doubt within three months from the date of the marriage, trouble has started between the husband and wife and HMOP No.109 of 2018 is also pending before the Sub Court, Ambasamudram, which was filed by the petitioner seeking an order of restitution of conjugal rights. No doubt that there was some sort of issue between the husband and wife. The reason for the above said issue, as mentioned earlier, according to the petitioner, his inability on the part of him to attend the funeral ceremony of the father of the second respondent. But these things cannot be canvassed at this stage.

13.So, I find no merit in this petition and accordingly, this petition is liable to be dismissed.

14.In the result, this criminal original petition is **dismissed**. But however considering the fact that the petitioner is working in Bangalore, his personal appearance is dispensed with. Within 15 days from the date of receipt of a copy of this order, the petitioner must appear before the trial court and file an undertaking affidavit and he must appear as and when required by the court and he must



ensure that he is properly represented by an Advocate. Accordingly, Crl.MP(MD)No.4425 of 2019 is ordered. Consequently, connected Crl.MP(MD)No.4424 of 2019 is closed.

Sd/-

Assistant Registrar(CS.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

**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 Court,  
Ambasamudiram.
- 2.The Inspector of Police,  
All Women Police Station,  
Ambasamudram,  
Tirunelveli District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Crl.O.P. (MD)No.6622 of 2019**

**Date:29/03/2022**

SA(18.05.2022) 4P 4C