



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.7897 of 2019

and

Crl.MP(MD)No.4805 of 2019

WEB COPY

Tmt.Santhiya : Petitioner/De-facto Complainant

Vs.

- 1.The Superintendent of Police,
District Police Office, Madurai District.
- 2.The Deputy Superintendent of Police,
Samayanallur Sub Division, Madurai District.
- 3.The Inspector of Police,
All Women Police Station,
Samayanallur,
Madurai District. : Respondents/Respondents

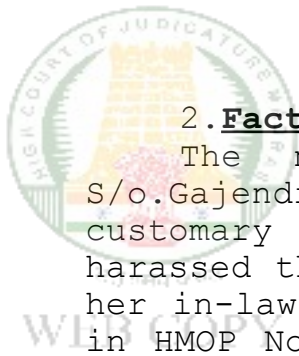
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the 1st respondent to transfer the investigation in Crime No.14 of 2019 on the file of the Inspector of Police, All Women Police Station, Samayanallur, Madurai District, to any other specialized investigation team under the direct monitoring of the 1st respondent, by deputing a honest and upright officer and to take appropriate legal actions against the incumbent Inspect of Police, All Women Police Station, Samayanallur, Madurai District, Mrs.A.Grace Sophia Bai, by considering the petitioner's representation, dated 15/05/2019.

For Petitioner : Mr.M.Srinivasa Raghavan

For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a direction to the 1st respondent to transfer the investigation in Crime No.14 of 2019 from the file of the 3rd respondent to some other officer and to conduct the investigation under the supervision of the 1st respondent.

**2. Facts in brief:-**

The marriage between the petitioner and one Bharathi, S/o.Gajendran was performed, on 19/10/2011 as per the Hindu customary rites. The husband and in-laws demanded more dowry and harassed the petitioner. A child was also born. But the husband and her in-laws did not visit the child. The husband filed a petition in HMOP No.50 of 2013 on 28/11/2012 before the III Additional Sub Court, Madurai. That was dismissed, on 26/07/2017. The petitioner and her child are living separately without proper care and maintenance. When the marriage was in subsisting, the husband performed second marriage with a minor girl. Based upon the complaint given by the petitioner, a case in Crime No.14 of 2019 for the offences under sections 294(b), 406, 498(A), 506(ii) IPC and sections 9 and 10 of the Prohibition of Child Marriage Act, was registered. It was altered sections 294(b), 323, 406, 498(A), 506 (ii) IPC, without proper enquiry as if no child marriage took place. If the investigation is allowed to be continued by the concerned Inspector of Police, then there is every possibility of the accused escaping from the crime. With these allegations, the petition has been filed by the petitioner, seeking transfer of the investigation.

3. Heard both sides.

4. Status report has also been filed by the 3rd respondent police. In the status report, it has been mentioned that totally 13 persons were arrayed as accused persons in this case. Out of 13 persons, the accused 1 to 3, 5 to 7 and 10 were arrested and remanded to judicial custody and the accused 4, 8, 9, 12 and 13 were enlarged on anticipatory bail by the order of the Principal District Judge, Madurai. When the accused was taken for remand, the Judicial Magistrate, Vadipatti did not accept that the offences under sections 9 and 10 of the Prohibition of Child Marriage Act are attracted. So he instructed, the Investigating Officer to delete the sections 9 and 10 of the Prohibition of Child Marriage Act. On that ground, deletion was made. So, A10 and A11 were removed from the array of the accused. Investigation was undertaken and 11 witnesses were examined. It was also ascertained that no child marriage took place. Even in the statement of the above said Harini which was recorded under section 164 Cr.P.C, she has not stated that she was married to A1. Simultaneously, the Social Welfare Officer was also required to conduct enquiry and file a report. From the investigation so far undertaken, it was found that no offence is available to show that the child marriage was performed.

5. From the status report, it is seen that the investigation has been undertaken in a fair manner. Absolutely, I find no merit or substance in the allegation that the Investigating Officer in order to screen the real offender has not taken any investigation in a proper manner. I find that the allegation of the petitioner that only the Investigating Officer altered the penal provisions is without any basis and absolutely a baseless one.



6.In a case of transfer of investigation, strong case must be made out. Here absolutely, there is no strong case. Even though the final report has been filed by deleting the accused namely A10 and the offence of Prohibition of Child Marriage Act, even then the petitioner is not remediless, she can work out her remedy at the appropriate time, by filing appropriate petition before the appropriate court. It is too premature stage to record a finding that the investigation has not been undertaken in a fair manner. So I find no reason to transfer the investigation.

7.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2022

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 Superintendent of Police,
District Police Office, Madurai District.
- 2.The Deputy Superintendent of Police,
Samayanallur Sub Division, Madurai District.
- 3.The Inspector of Police,
All Women Police Station,
Samayanallur,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.7897 of 2019
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MGJ(24.06.2022) 3P 5C

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