



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2022

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P (MD) No.13022 of 2022

and

Cr1.M.P (MD) No.8262 of 2022

WEB COPY

1.Shanthi
2.Jeyaraj
3.Daisy Rani

...Petitioners/ Accused 2 to 4

vs.

1.The Inspector of Police,
All Women Police Station South,
Madurai, Madurai City.
(Cr.No.28 of 2022)

2.Fathima Farzana

...Respondents/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.107 of 2016 on the file of the Additional Mahila Court, Madurai and to quash the same as against the Petitioners/Accused Nos.2 to 4.

For Petitioner	: Mr.N.Mohideen Basha
For R1	: Mr.R.Sivakumar
	Government Advocate
For R2	:Mr.J.Sulthan Basha

O R D E R

This Criminal Original Petition is filed to quash the C.C.No.107 of 2016 on the file of the Additional Mahila Court, Madurai, and to quash the same as against the Petitioners/Accused Nos.2 to 4.

2.It is the contention of the Petitioners that the first and second Petitioners' son/A1 married the second Respondent. It was a love marriage. The Petitioners are Christians. The second Respondent is a Muslim. The Petitioners had severed the relationship with their son. The Petitioners are not residing with their son and daughter-in-law under the same roof. While so, the Petitioners submitted that they had lodged a complaint that their daughter-in-law along with her relatives had trespassed into the house of the Petitioners, threatening them, assaulting them and causing damage to their property. Based on which, a complaint was



lodged by the Petitioners and based on the complaint of the Petitioners, an FIR in Cr.No.796 of 2015 on the file of the Subramaniyapuram Police Station was registered.

3.Only as an after thought, the second Respondent had initiated the case, which ended up in laying a final report, which was taken cognizance and taken on file by the learned Judicial Magistrate (Additional Mahila Court), Madurai in C.C.No.107 of 2016. It is the further submission of the learned Counsel for the Petitioners that the Petitioners have executed a document, even though it is not accepted in the eyes of law, only for the purpose to prove the *bona fide* that the son of the Petitioners 1 and 2 does not have any relationship with the Petitioners prior to the marriage.

4.The learned Counsel for the second Respondent submitted that the de-facto Complainant had filed a Petition for restitution of conjugal rights before the Family Court. Subsequently, she came to know that the husband of the De-Facto Complainant, who is the first accused, had contracted a second marriage with one Vijayalakshmi. Therefore, she has not pressed the Petition seeking restitution of conjugal rights. Further, she had filed a petition in M.C.No.37 of 2016 against the first accused for maintenance. However, the first accused had not paid the maintenance. Therefore, he had been detained in prison for non payment of the arrears of maintenance amount.

5.The learned Counsel for the second Respondent submitted that the contention of the Petitioners that they had severed the relationship with their son is not proved. He filed typed set of papers to disprove the claim of the Petitioners stating that the first accused, who is the husband of the De-Facto Complainant, had transferred money from Saudi Arabia to the account of the Petitioners herein. Therefore, the contention of the second Respondent that the Petitioners do not have any relationship with their son is false fictitious and cannot be accepted in the eyes of law.

6.The learned Counsel for the second Respondent also submitted that the second Respondent had invoked the Domestic Violence Act case against her husband and her in-laws, based on which, the Social Welfare Officer of the District had conducted an enquiry and filed a report. The first Respondent also conducted enquiry and filed a report before the learned Judicial Magistrate (Additional Mahila Court), Madurai, in which an undertaking was given by the father of the husband that he will not disturb the possession of the De-Facto Complainant in the first floor of the room allotted to her.

7.By way of rejoinder, the learned Counsel for the Petitioners submitted that the domestic violence case had been quashed as per the order passed by this Court in Crl.O.P(MD)No.508 of 2017, dated 25.10.2018, as against the parents and sister of the husband of the



De-Facto Complainant and the domestic violence act case the maintenance case can be proceeded only against the husband of the De-Facto Complainant.

8.The learned Government Advocate vehemently objected to the contention of the learned Counsel for the Petitioners seeking quashment of the Charge Sheet laid by the All Women Police Station before the Court of the learned Judicial Magistrate (Additional Mahila Court) in C.C.No.107 of 2016.

9.Considering the rival submissions, the contention of the learned Counsel for the Petitioners cannot be accepted in the light of the submission that the Petitioners had severed the relationship with their son earlier to the marriage and they are not residing under the same roof. Also in the light of the fact that the domestic violence case was quashed against the Petitioners. What are all agitated by the Petitioners are to be considered only during trial through appreciation of evidence by the learned Judicial Magistrate (Additional Mahila Court), Madurai.

(*)10. In the light of the above, this petition is dismissed with the direction to the learned Judicial Magistrate(Additional Mahila Court) Madurai to dispose of the case within a reasonable period of three months from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed. Further the personal appearance of the Petitioners who are in-laws before the trial Court is dispensed with during the period of trial except on the date of 313Cr.P.C questioning and at the time of pronouncing judgement.

Sd/-

Assistant Registrar (CS-I)

(*)Corrected as per order of this Court dated 03.11.2022 made in CRL.O.P (MD) No.13022 of 2022

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/11/2022

Sub Assistant Registrar(CS)

cmr

To

(*) To be substituted with the order already despatched on 19/10/2022

1.The Judicial Magistrate (Additional Mahila Court),

Madurai

<https://www.mhc.tn.gov.in/judis>



2.The Inspector of Police,
All Women Police Station South,
Madurai, Madurai City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.SULTHAN BASHA, Advocate (SR-48697[F] dated
11/10/2022)

CRL.O.P(MD)No.13022 of 2022
10.10.2022

SI(17.10.2022) 3P 5C
RD(10/11/2022) 4P 5C