



Crl.O.P.(MD) No.13714 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 06.09.2022

PRONOUNCED ON : 14.10.2022

CORAM

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

**CRL.O.P(MD)No.13714 of 2022
and
Crl.M.P(MD)No.8758 of 2022**

1.S.Kasirajan
2.K.Samayan
3.S.Panchavarnam
4.S.Muthukumr
5.S.Karthikeyan

...Petitioners

vs

1.The State through
The Inspector of Police,
All Women Police Station,
Theni Disrict.
(Cr.No.3 of 2020)

2.The Inspector of Police,
All Women Police Station,
Thiruparankundam,
Madurai City.
(Cr.No.29 of 2020)

3.K.Pandiselvi

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the entire records connected with the case in C.C.No.179 of 2022 pending on the file of the learned Judicial Magistrate/Additional Mahila Court, Madurai and to quash the same.



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For Petitioners
For R1 and R2

: Mr.N.Malaikani
: Mr.R.Sivakumar
Government Advocate

ORDER

Heard Mr.N.Malaikani, learned Counsel for the Petitioners and Mr.R.Sivakumar, learned Government Advocate appearing for the Respondents 1 and 2.

2.The learned Counsel for the Petitioners submitted that the first Petitioner herein was married to the third Respondent. The marriage was a love marriage. The first Petitioner is undergoing Ph.D. in Engineering and because of his avocation, he had stayed at Chennai. The third Respondent became pregnant. Therefore, she was sent to the matrimonial home at Madurai for the function related to the first pregnancy (Seemantham). The third Respondent/De-Facto Complainant lodged a complaint stating that after the birth of the child, the husband of the De-Facto Complainant did not come to meet the De-Facto Complainant and her child. The statement of the De-Facto Complainant was recorded by the Investigating Officer under Section 161(3) Cr.P.C.,



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3. In the statement recorded by the Investigation Officer under Section 161 Cr.P.C., the De-Facto Complainant had stated that on receiving the intimation regarding the birth of the child, the husband of the De-Facto Complainant came immediately to meet the De-Facto Complainant and her child. The in-laws came after 15 days to see her and the child. Further, based on the complaint of the De-Facto Complainant regarding dowry harassment, the subject matter was referred to the Social Welfare Department. The Social Welfare Officer had conducted enquiry and filed a report, in which, it is clearly stated that it is a dispute between the husband and wife and demand of dowry does not arise, as per the report of the Social Welfare Officer. The said report of the Social Welfare Department was also furnished to the Investigation Officer. In spite of the same, the Investigation Officer had filed a final report for the offences punishable under Sections 498(A) and 294(b) of IPC as against A4 and A5. Therefore, the contention of the learned Counsel for the Petitioners is that the offence under Section 498(A) of IPC is not at all attracted in this case. Further, he drew the attention of this Court to Section 498(A) of IPC, which reads as follows:



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***"498A. Husband or relative of husband of a woman
subjecting her to cruelty –***

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation –For the purpose of this section, "cruelty" means–

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

CLASSIFICATION OF OFFENCE

Punishment–Imprisonment for 3 years and fine-Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf–Non-bailable–Triable by Magistrate of the first class–Non-compoundable."

4. Therefore, he seeks to quash the charge sheet filed by the first Respondent and taken cognizance by the learned Judicial Magistrate, Additional Mahila Court, Madurai in C.C.No.179 of 2022.

5. The learned Government Advocate (Crl.side) vehemently objected to the submission of the learned Counsel for the Petitioners stating that originally the case was registered at Theni. Subsequently, transferred to Madurai. As per investigation, there are sufficient materials to incriminate the Petitioners herein for the



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offences punishable under Sections 498(A) and 294(b) of IPC. He also invited the attention of this Court to the final report laid before the learned Judicial Magistrate cum Additional Mahila Court, Madurai. Therefore, he sought dismissal of this Petition.

6.On perusal of the typed set filed along with the Petition by the learned Counsel for the Petitioners, it is found that based on the complaint of the third Respondent/wife of the first Petitioner regarding dowry harassment by the first Petitioner/husband and in-laws of the third Respondent, as per the mandatory requirement under the Dowry Prohibition Act, the Social Welfare Officer (Dowry Prohibition Unit), had conducted enquiry and forwarded a report to the Investigation Officer, dated 24.06.2021, in which, the Social Welfare Officer had stated that there is a dispute between the husband and wife, which is not with regard to dowry. No case of dowry harassment is made out.

7.Even though this report was sent to the Investigation Officer, All Women Police Station, Tiruparankundam, Madurai City, the Investigation Officer/second Respondent ignoring the enquiry report of the Social Welfare Officer, as per the Dowry Prohibition Act,



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proceeded with the investigation, as though there was dowry harassment by the first Petitioner/husband and his parents against the third Respondent/De-Facto Complainant.

8.In a similar circumstance, a learned Single Judge of this Court reported in **2015 SCC Online Mad 4619 (K.Santhosh Kumar and others vs The State of Tamil Nadu)**, held that the enquiry report of the Social Welfare Officer/Dowry Prohibition Officer, is just an opinion. The Inquiry Officer proceeds with the investigation based on the statement of the witnesses, who had given the statement to the Investigation Officer. Based on the statement of the witnesses, whether the offence is made out or not is decided by the Investigation Officer. Accordingly, final report was filed. Therefore, the contention of the learned Counsel for the Petitioners seeking to quash the charge sheet on the ground that the Investigation Officer had not considered the report of the Social Welfare Officer is found unacceptable. Therefore, the same is rejected.

9.In the light of the above discussion, this Petition is dismissed. The learned Judicial Magistrate/Additional Mahila Court, Madurai, is directed to dispose of the case in C.C.No.179 of 2022 within a period



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of four months from the date of receipt of a copy of this order.

Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No

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vsd/cmr

To

1.The Judicial Magistrate/Additional Mahila Court, Madurai.

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Theni District.

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SATHI KUMAR SUKUMARA KURUP, J.

vsd/cmr

Order made in
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14.10.2022