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Crl.O.P(MD)No.13531 of 20



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.10.2022

DELIVERED ON : 25.11.2022

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P(MD).No.13531 of 2021

and

Crl.M.P(MD).No.7031 of 2021

1. Thennarasu
2. Kalaiselvi
3. Kennedy

: Petitioners

Vs

1.State through
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai
in Crime No. 372 of 2019,
Madurai.

2. Premchandrar

: Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, praying,
to call for the records in Crime No. 372 of 2019, pending on the file of the first
respondent and to quash the same in so far as the petitioners/ Accused Nos.1 to
3 are concerned.



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For Petitioners : Mr. R.Rajamohan

For R1 : Mr.R.Meenakshi sundaram

For R2 : Mr.R.L.Dhilipan Pandian

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No. 372 of 2019, pending on the file of the first respondent.

2. The case of the prosecution is that the first accused married the defacto complainant's elder daughter, namely, Priyanga Angelin on 18.05.2018. They have filed a mutual divorce petition in I.D.No.858 of 2019 before the Family Court, Madurai. On the date of hearing the divorce petition, the first Petitioner failed to give consent for divorce and hence, on 16.08.2019, they have sent a legal notice to the first Petitioner. Being aggrieved over the said notice, on 18.08.2019 at about 01.30 pm., the first petitioner at the instigation of the other petitioners, threatened the daughter of the defacto complainant over phone and abused her in filthy language. Thereafter, the first Petitioner and five others on 19.08.2019 went to the house of the defacto complainant and waylaid the daughter of the defacto complainant and also abused and attacked her with hands. Hence, the second respondent had lodged the complaint before the first



respondent, on 23.08.2019 and a case was registered in Crime No.372 of 2019 for the offences under Sections 147, 294(b), 506(i) and 109 of IPC. Thereafter, the case has been altered to Sections 147, 148, 109, 294(b), 323, 341, 498(A), 506(ii) of IPC and Section 4 of TNPHW Act.

3. The learned counsel appearing for the petitioners submitted that after registration of the First Information Report by the first respondent police, the matter has been settled, wherein the first petitioner and the defacto complainant's daughter got mutual divorce by the judgment and decree passed by the Family Court, Madurai in I.D.O.P.No.1009 of 2019 dated 11.10.2019. Further, in view of the settlement arrived, the second respondent has also agreed to withdraw the complaint lodged against the petitioners in Crime No. 372 of 2019 by a letter of undertaking, dated 06.09.2019, but she failed to adhere to the terms and conditions. Further, the criminal case against the petitioners is a clear case of abuse of process of law. The complaint was lodged on 23.08.2019 and the First Information Report came to be registered on the same day. As per the contents in the First Information Report, the occurrence took place at 17.42 hours in the house of the defacto complainant. He would further submit that the first respondent has no jurisdiction to register the First Information Report. The first respondent should have forwarded the complaint



to the All Women Police Station, concerned. Without doing so, they have registered the First Information Report.

4.The learned Additional Public Prosecutor would submit that act of the petitioners attracts the ingredients of the offence under Section 498(A) of IPC. He would further submit that the First Information Report came to be registered in the year 2019 and the investigation is still pending. Hence, he seeks dismissal of the Petition.

5.The learned Counsel appearing for the second respondent would submit that the daughter of the defacto complainant was given in marriage to the first Petitioner herein. Due to misunderstanding, they got separated. Initially, the complaint was lodged before the Samayanallur Police Station, in which, the petitioner herein, was granted anticipatory bail. The matter was referred to Mediation Centre and in the mediation, settlement was arrived at between the parties.

6.On consideration of the rival submissions, the submission of the learned counsel appearing for the petitioners is found acceptable in the facts and circumstances of the case as gathered from the materials placed before this



Court, FIR in Crime No.372 of 2019 and the petition filed by the first petitioner and the daughter of the second respondent in I.D.O.P.No.1009 of 2019, petition for divorce by mutual consent, which was ordered by the learned Judge, Family Court at Madurai. The contents of the FIR in Crime No.372 of 2019, dated 23.08.2019, state that shortly after the marriage, there had been disputes between the husband and wife. The husband is an MBA graduate and the wife is a Dentist. The wife had given a complaint to the All Women Police Station. Based on which, the All Women Police Station, Samayanallur, had summoned the petitioners for enquiry. Sensing the trouble, the Petitioners herein sought for anticipatory bail by filing anticipatory bail application in Cr.L.O.P(MD)No. 1481 of 2019. During the hearing of the anticipatory bail petition, the learned Single Judge of this Court referred the matter to Mediation. In the Mediation, it was agreed that the first petitioner and the daughter of the second respondent herein would file a joint petition before the Family Court, seeking divorce by mutual consent. In the light of the settlement arrived at before the Mediation Centre attached to this Court, it was decided that the criminal complaint filed by the wife would be withdrawn. Also it was agreed that each others' jewels had to be handed over to the respective parties and the marriage expenses have also to be shared. According to the said settlement arrived at the Mediation Centre attached to this Court, both the parties had moved I.D.O.P.No.1009 of



2019, which was decreed as divorce by mutual consent. When the parties had arrived at an amicable settlement and in the light of the said settlement in I.D.O.P had been decreed at, the FIR, which had been filed prior to the filing of the I.D.O.P. The FIR in Crime No.372 of 2019 proceeds on the basis that the wife did not agree for divorce by mutual consent. Therefore, the husband/first petitioner herein attacked his wife with hands and abused her using filthy language and also threatened her and family members. Therefore, the father-in-law/second Respondent of the first Petitioner, herein, had lodged a complaint with Nagamalai Pudhukottai Police Station, based on which, Nagamalai Pudhukottai Police had originally registered the FIR in Crime No.372 of 2019 for the offences under Sections 147, 294(b), 506(i) and 109 of IPC and subsequently, altered by including offences under Section 147, 148, 109, 294(b), 323, 341, 498(A), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act

7.The contention of the learned counsel appearing for the Petitioners is that Nagamalai Pudhukottai Police has no jurisdiction to include the offence under Section 498(A) IPC, as the subject matter relates to the All Women Police Station, cannot be accepted. Considering the fact that the FIR had been altered based on the investigation and Section 498(A) IPC and Section of 4 of



Tamil Nadu Prohibition of Harassment of Women Act are included and investigation of the case discloses that the origin of the case with regard to the matrimonial dispute when the FIR is under Section 498(A) IPC, naturally, Nagamalai Pudhukottai Police has to transfer the investigation to the All Women Police Station concerned, in which, the jurisdiction of the Nagamalai Pudhukottai Police station is covered. Therefore, that cannot be a ground to quash the FIR. The only ground is that the parties agreed that they will withdraw the criminal complaint already given. But, here is a case, after the mediation, both the parties agreed to file a petition seeking divorce by mutual consent. When the wife has withdrawn from such agreement, the husband got agitated and threatened her. Now, the parties had approached the Court and obtained decree of divorce by mutual consent. Therefore, no purpose will be served by keeping or maintaining this FIR in Crime No.372 of 2019 and taking it to its logical conclusion. It is nothing but abuse of process of law. Therefore, the objections of the learned counsel appearing for the second respondent/defacto complainant and the learned Additional Public Prosecutor, are rejected.

8.In the result, this Criminal Original Petition is allowed. Accordingly, the FIR in Crime No.372 of 2019, on the file of the Inspector of Police,



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Nagamalai Pudukottai Police Station, Madurai, is quashed. Consequently connected miscellaneous petition is closed.

25.11.2022

Index : Yes/No
Internet : Yes/No
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SATHI KUMAR SUKUMARA KURUP, J.
lr

To

1.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai

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

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