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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.14051 of 2021

and

Crl.M.P. (MD)Nos.7368 & 7369 of 2021

Kamal Batcha

... Petitioner / Accused No.1

Vs

1.The Inspector of Police,
Uthamapalayam All Women Police Station,
Uthamapalayam Post,
Theni District.
(Crime No.2/2020)

...1st Respondent/Complainant

2.Rabiya

...2nd Respondent/
Defacto complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the impugned charge sheet in C.C.No.75 of 2021 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District and quash the same.

For Petitioner : Mr.M.Karuppasamy Pandian

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for R1.

2. The petitioner is facing trial in C.C.No.75 of 2021 on the file of the Judicial Magistrate, Uthamapalayam. It is a matrimonial complaint. The petitioner is aged about 74 years. He got married to the second respondent herein in the year 2019. Though the second respondent alleged not only cruelty but also demand of dowry, after enquiry, it was found that there was no demand of dowry. Hence, charge sheet was filed only for the offence under Section 498(A) of IPC. Cognizance of the offence has also been taken. To quash the impugned proceedings, this Criminal Original Petition came to be filed.



3. Though the petitioner's counsel reiterated all the contentions set out in the memorandum of grounds, since contentious facts are involved, I am not in a position to consider the same. Leaving open the petitioner's defences, this criminal original petition is dismissed.

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4. However, taking note of the overall facts and circumstances, the personal appearance of the petitioner before the court below is dispensed with. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through his counsel. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

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, Uthamapalayam, Theni District.
- 2.The Inspector of Police,
Uthamapalayam All Women Police Station,
Uthamapalayam Post,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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