



Crl.O.P.(MD) No.15448 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.11.2022

PRONOUNCED ON : 25.11.2022

CORAM

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

CRL.O.P(MD)No.15448 of 2022
and
Crl.M.P(MD)No.10131 of 2022

1.Marippan
2.Subbulakshmi

...Petitioners

VS

1.State represented by
The Inspector of Police,
All Women Police Station, Theni.
(Cr.No.13/2022)

2.C.Menaka

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the entire records pertaining to the impugned charge sheet in P.R.C.No.16 of 2022 on the file of the learned Additional Mahila Court, Theni and to quash the same with respect to the Petitioners.

For Petitioners

:Mr.N.R.Elango
Senior Counsel
for Mr.J.Hariharan

For R1

:Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For R2

:Mr.A.Senthil Kumar



Crl.O.P.(MD) No.15448 of 2022

ORDER

WEB COPY

This Criminal Original Petition is filed to quash the charge sheet in P.R.C.No.16 of 2022 on the file of the learned Additional Mahila Court, Theni.

2.Heard Mr.N.R.Elango, learned Senior Counsel for the Petitioners, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the first Respondent and Mr.A.Senthil Kumar, learned Counsel for the second Respondent.

3.The learned Senior Counsel appearing for the Petitioners submitted that he is appearing for the Petitioners, who are the parents of A1. The learned Senior Counsel for the Petitioners invited the attention of this Court to the charge sheet, where the allegations are found. The age of the De-Facto complainant is given as 29/2022. The age of A1 is given as 32/2022. Further, the learned Counsel for the Petitioners invited the attention of this Court to the contents of the First Information Report and the contents of the charge sheet. Except the fact that they were the parents of A1 and A1 having introduced the De-Facto Complainant, as his fiancée and the parents of A1 have expressed their desire accepting her as daughter-in-law, there are no



other ingredients incriminating the alleged offence against the parents of A1. Further, the learned Senior Counsel for the Petitioners placed reliance on the judgment of the Hon'ble Supreme Court, dated 01.03.2021 in ***Crl.A.No.233 of 2021*** in the case of ***Sonu @ Subhash kumar .vs. State of Uttar Pradesh and Another***. On similar facts, where he placed reliance on the ingredients of the First Information Report, as quoted by the Hon'ble Supreme Court. The relevant paras read as follows:

“8.The contents of the FIR as well as the statement under Section 164 of CrPC leave no manner of doubt that, on the basis of the allegations as they stand, three important features emerge:

- (i) The relationship between the appellant and the second respondent was of a consensual nature;*
- (ii) The parties were in the relationship for about a period of one and a half years; and*
- (iii) Subsequently, the appellant had expressed a disinclination to marry the second respondent which led to the registration of the FIR.*

10. Further, the Court has observed:

“To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.”

11. Bearing in mind the tests which have been enunciated in the above decision, we are of the view that even assuming that all the allegations in the FIR are correct for the purposes of considering the application for quashing under Section 482 of CrPC, no offence has been established. There is no allegation to the effect that the promise to marry given to the second respondent was false at the inception. On



CrI.O.P.(MD) No.15448 of 2022

the contrary, it would appear from the contents of the FIR that there was a subsequent refusal on the part of the appellant to marry the second respondent which gave rise to the registration of the FIR. On these facts, we are of the view that the High Court was in error in declining to entertain the petition under Section 482 of CrPC on the basis that it was only the evidence at trial which would lead to a determination as to whether an offence was established.

12 .For the above reasons, we allow the appeal and set aside the impugned judgment and order of the High Court dated 26 September 2019. In view of the reasons which have been adduced earlier, the charge sheet dated 25 April 2018, which has been filed in pursuance of the investigation which took place, shall stand quashed. The order of the trial Court dated 3 October 2018 taking cognizance shall accordingly stand quashed and set aside.

13.In view of the above order, Mr Amit Pawan, learned counsel appearing on behalf of the appellant, states that no further step shall be taken in respect of the cross-FIR which was registered against the second respondent at the behest of the appellant”

4.In the light of the above, the learned Senior Counsel for the Petitioners submitted that there are no ingredients made out incriminating the Petitioners herein, who are parents of A1 for the alleged offence in the final report, which is taken cognizance by the learned Trial Judge. If the Petitioners are allowed to face the prosecution, it is nothing but abuse of process of Court. It is nothing but consensual sex between the De-Facto Complainant and the son of the Petitioners.

5.The learned Additional Public Prosecutor would submit that the contents of the First Information Report would attract the



Crl.O.P.(MD) No.15448 of 2022

ingredients of the offence. It is on the promise of the parents only the De-Facto Complainant continued the relationship with the son of the Petitioners and had relationship with him. Therefore, the learned Additional Public Prosecutor objected to quash the proceedings against the Petitioners, as there is no merit in the Petition.

6.The learned Counsel for the second Respondent vehemently objected to the submission of the learned Senior Counsel for the Petitioners seeking to quash the final report filed by the first Respondent. It is his submission that the second Respondent is an MA graduate. She was actually working as a Designer in the Textile showroom of the Petitioners. Subsequently, she started her own Cosmetic Shop in the same building, which belong to the Petitioners herein, as a separate shop. She was running the Cosmetic Shop. The Petitioners' son, G.M.Murugan, who is arrayed as A1, had developed friendship with the De-Facto Complainant and in the course of the friendship, it developed as a love affair. In the course of the love affair, he promised to marry her. The second Respondent did not believe in him. Therefore, he took her to his parents house and introduced her as his fiancée. On such introduction, the parents of the said G.M.Murugan, the Petitioners herein, had promised the



CrI.O.P.(MD) No.15448 of 2022

second Respondent that they will accept her as their daughter-in-law.

On such promise, the son of the Petitioners forced the second Respondent to have sex with him, even though she refused. The wordings in the complaint as well as the FIR are proof of the same. The learned Counsel for the second Respondent invited the attention of this Court to the statement of the witness, Vinoth, who had served as a Manager of the Textile showroom run by the G.M.Murugan, which reads as follows:

"..... தேனி பாரஸ்ட் ரோட்டில் உள்ள முருகனின் வீட்டிற்கு அழைத்து சென்று மேனகாவுடன் பல முறை உடலுறவு வைத்துக் கொண்டதாகவும் மேனகா என்னிடம் கூறினார். மேனகா என்னிடம் கூறும் போது தான் இருவரும் காதலித்த விஷயம் எனக்கு மேனகா சொல்லி தெரியும். அதுவரைக்கும் இருவரும் பேசுவது கூட எனக்கும் தெரியாது....."

7.The learned Counsel for the second Respondent/De-Facto Complainant further submitted that after having sexual intercourse on the pretext of getting married and as though he had obtained permission from his parents, the second Respondent was forced to believe that the Petitioners herein will perform the marriage of the second Respondent. They had abetted their son to have sexual intercourse with the second Respondent and subsequently, the Petitioners' son discarded (betrayed/betrayal) the second Respondent. Therefore, the Petitioners are criminally culpable for their conduct. If



Crl.O.P.(MD) No.15448 of 2022

the Petitioners had refused to accept the relationship of their son with the second Respondent, the second Respondent would not have the opportunity to give a complaint against the Petitioners and their son.

8.The learned Counsel for the second Respondent/De-Facto Complainant further submitted that the judgment relied upon by the learned Senior Counsel for the Petitioners ***Crl.A.No.233 of 2021*** in the case of ***Sonu @ Subhash kumar .vs. State of Uttar Pradesh and Another***, will not be applicable to the facts of this case.

9.The first accused had misused the relationship with the second Respondent under the false pretext only with an intention to have sexual intercourse and making her believe that he will marry her by tying a Thali (Sacred Thread), which makes a Hindu woman believe that she is a married wife of a Hindu man and the Petitioners' having promised her that they had accepted her as their daughter in-law. The said fact is to be proved in a trial and not exercising the power of this Court under Section 482 Cr.P.C. Also, the learned Counsel for the second Respondent submitted that the Petitioners' son had also filed a similar Petition to quash the P.R.C.No.16 of 2022 and subsequently, withdrew the same.



Crl.O.P.(MD) No.15448 of 2022

10. Here, the second Respondent is an MA graduate. She was given false promise by the Petitioners, which resulted in the second Respondent believing that the son of the Petitioners will marry her. He himself had forced to have sexual intercourse with her. There are words in the contents of the FIR that "my parents had given permission that they have accepted you as their daughter in-law; still you won't believe me; I am going to marry you". Subsequently, he avoided the relationship and told her that he wanted to have sex with her; only to have sex with her, he made stage managed drama. Therefore, the Petitioners are culpable for their conduct attracting the provision of 109 of IPC for the conduct of their son. When the son had introduced the second Respondent, they are alleged to have acknowledged the relationship. Based on that, the son of the Petitioner had been forcing her to have sex with him. Subsequently, the son of the Petitioners discarded (betrayed/betrayal) the relationship and also expressed that only with an intention to have sex with her, he stage managed to show that his parents will accept the relationship. Therefore, the "if" clause found in the reported Ruling cited by the learned Senior Counsel for the Petitioners is applicable to the case herein, the promise of marriage must have been a false promise given in bad faith and with no intention of being adhered to,



Crl.O.P.(MD) No.15448 of 2022

at the time it was given, is very much applicable to this case on the conduct of the parents of A1 to have give promise to Respondent No.2 that she will be their daughter-in-law. Apart from that, A1 tied Thali on the neck of the Respondent No.2 and on the ground that she is his wife, he had forced sex on her. Therefore, the reported ruling is to be put to test only in trial and not at this stage under Section 482 Cr.P.C. It is to be dismissed. If this Petition is allowed, the Petitioners' son will spoil women of marriageable age in the same manner. The ruling cited by the learned Senior Counsel for the Petitioners will not be applicable to the facts of this case. The Petitioner are criminally liable *prima facie* and it is subject to evidence before the Trial Court.

With the above discussion, this Petition is dismissed.

In the result, this Criminal Original Petition is dismissed. The learned Judicial Magistrate-Additional Mahila Court, Theni, is directed to commit the case to the Court of Sessions, Theni. Consequently, connected Miscellaneous Petition is closed.

25.11.2022

Index:Yes/No
cmr/aav

9/11



Crl.O.P.(MD) No.15448 of 2022

To

WEB COPY

- 1.The Additional Mahila Court, Theni.
- 2.The Inspector of Police,
All Women Police Station, Theni.



WEB COPY



Crl.O.P.(MD) No.15448 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

cmr/aav

Order made in
CRL.O.P(MD)No.15448 of 2022

25.11.2022