



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.13177 of 2019

and

Crl.MP(MD)No.8097 of 2019

WEB COPY

1.Sri Saravana Pramma Nayagam
2.Ramkumar
3.Imani Subburadha : Petitioners/A1 to A3

Vs.

1.State rep. By
The Inspector of Police,
All Women Police Station,
Tenkasi,
Tirunelveli District.
(Crime No.06/18) : Respondent/Complainant

2.Gokilampal : Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the entire records in CC No.250 of 2019 on the file of the Judicial Magistrate, Sengottai, Tirunelveli District and quash the same.

For Petitioner : Mr.N.Mohidden Basha
For 1st Respondent : Mr.R.Meenakshi Sundaram
For 2nd Respondent : No appearance

O R D E R

This criminal original petition is filed seeking quashment of CC No.250 of 2019 on the file of the Judicial Magistrate, Sengottai, Tirunelveli District.

2.The case of the prosecution in brief:-

The first accused was engaged to marry a girl. But that was stopped. So the marriage was arranged with one Dhalakahsmi, who is the daughter of the de-facto complainant. A talk was undertaken, on 23/03/2018. At that time, the accused 2 and 3 promised that the marriage will be performed, even though the first marriage proposal stopped and they also promised that they will not make any demand of jewels etc. So believing the words of the accused 2 and 3, engagement was performed, on 06/05/2018 and the marriage was



proposed to be performed, on 01/07/2018. Later, the accused 2 and 3 started saying that they are not interested in the marriage. They also tried to stop the marriage by saying one or other reason. On 23/05/2018 at about 10.30 am, the first accused contacted the 2nd witness through phone and stated that her horoscope is not in favour of the first marriage. So, it cannot be stopped. That was objected by the 2nd witness. At that time, he was abused in filthy language and also criminally intimidated. Again, on 26/05/2018, they went to the house of the accused and made enquiry. Even at that time also, they also abused the de-facto complainant in filthy language and also criminally intimidated. Upon the complaint given by the de-facto complainant, a case in Crime No.6 of 2018 was registered for the offences under sections 294(b), 417, 506(ii) IPC and Section 4 of Dowry Prohibition Act and after completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.250 of 2019 by the Judicial Magistrate, Senkottai.

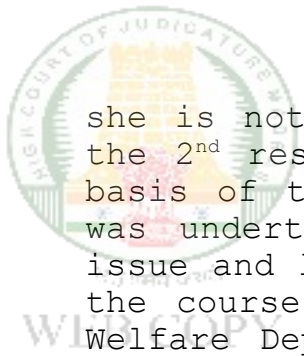
3. Seeking quashment of the same, this petition came to be filed by all the accused persons.

4. Heard both sides.

5. Despite service of notice, the 2nd respondent has not appeared, who is the de-facto complainant. As stated in the pleadings portion, the main allegation is that citing the horoscope position, the accused persons said to have stopped the marriage, which was already arranged and when that was questioned, they were criminally intimidated and abused in filthy language.

6. During the course of the argument, the learned counsel appearing for the petitioners would submit that the 2nd respondent after the stoppage of the above said marriage proposal, married some other boy and living happily, but whereas the first petitioner hereby is still unmarried. This is the factual position with any correlated document, this court cannot take all those things.

7. Now the question, which arises for consideration is whether in the factual situation of the case, the offence under section 417 IPC will be attracted. No doubt that the de-facto complainant was originally about to be married to some other person and that was stopped for some unknown reason and second time this marriage was proposed and arranged. Betrothal was also conducted and later failed. The reason for stoppage of the marriage, as mentioned by the de-facto complainant is that the horoscope is not supporting. The first petitioner namely Sri Saravana Pramma Nayagam and his wife namely Ayyammal made a complaint, on 11/06/2018 stating that out of pressure made by the de-facto complainant and his parents, the marriage function was arranged and betrothal was also performed. On 30/03/2018, the bride groom also came to India and talked with the second respondent. After a long time, the horoscope was shown to the



she is not matching. So their intention was also communicated to the 2nd respondent's family. But they started threatening. On the basis of the complaint given by the second petitioner, an enquiry was undertaken and the police advised the parties to settle the issue and later, their son did not consent for the marriage. During the course of investigation, enquiry was undertaken by the Social Welfare Department and during the course of investigation, it was found that there was no demand of dowry from the accused persons; difference of opinion arose between the second respondent and the first accused, when they had a telephonic conversation, so the Social Welfare Department officials was opined that there was no demand of dowry, it is some sort of psychological issue and so, the marriage has been stopped. On the basis of that only, the offence under Dowry Prohibition Act has been deleted.

8. Section 417 IPC reads as follows:-

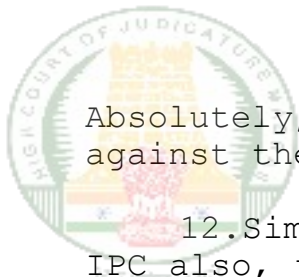
"417. Punishment for cheating.—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

9. Cheating is defined under section 415 IPC, which reads as follows:-

"415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

10. Reading of these provisions show that there must be a clear intention on the part of the accused, even at the inception to deceive the second respondent and her parents. The facts and circumstances as well as the complaint clearly shows that the difference of opinion arose between the family of both sides over some sort of horoscopic issue. So that cannot be considered as an intention to cheat. If at all, the second respondent and the family members are entitled to proceed against the petitioners by filing a civil suit for damages. Absolutely, no criminality can be attributed towards their action of refusal to carry out the marriage proposal.

11. Moreover, as mentioned earlier, from the report of the Social Welfare Officer, it is seen that only due to some sort of psychological issue, the trouble has arisen between the parties.



Absolutely, there is no basis to proceed under section 417 IPC against the petitioners.

12. Similarly for the offences under sections 294(b) and 506(i) IPC also, there is no indication in the final report that because of the above said issue, a threat was made by the accused persons, which caused death fear in the mind. It is also seen that the abuse took place in the house of the second respondent's parents. So the house of the second respondent's parents will not come under the definition of 'public place'. There is no allegation in the final report that there was abuse language in the presence and in the hearing public and because of that, there was annoyance.

13. In view of the subsequent development of the marriage of the 2nd respondent, absolutely, no purpose will be served in keeping the proceedings pending against the accused persons.

14. In the result, this criminal original petition is **allowed**. The impugned CC No.250 of 2019 on the file of the Judicial Magistrate, Sengottai, Tirunelveli District is hereby quashed as against the petitioners. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

er

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,
Sengottai, Tirunelveli District.
2. The Inspector of Police,
All Women Police Station,
Tenkasi,
Tirunelveli District.



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

WEB COPY

Crl.O.P.(MD)Nos.13177 of 2019
06/04/2022

nsn (CO)

GC (09.06.2022) 5P 4C