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Crl.O.P.(MD)No.18955 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.18955 of 2018

and

Crl.MP(MD)No.8455 of 2018

Ananthi : Petitioner/A2

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Tenkasi,
Tirunelveli District.
(Crime No.4 of 2015)

: R1/Complainant

2.Srilanga Meenakshi

: R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.29 of 2018 on the file of the Judicial Magistrate, Shenkottai, Tirunelveli District.

For Petitioner : Mr.S.Palani Velayutham

For 1st Respondent : Mr.SS.Madhavan
Government Advocate

For 2nd Respondent : M/s.Porkodi Karnan
for Polax Legal Solutions



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O R D E R

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This criminal original petition has been filed by the petitioner seeking quashment of CC No.29 of 2016 on the file of the Judicial Magistrate, Shenkottai, Tirunelveli.

2.The case of the prosecution in brief:-

The de-facto complainant is the first wife of the first accused. Because of the marriage, they begotten a female child. The second accused is the second wife of the first accused. Because of the second marriage, they also begotten a female child. The marriage between the de-facto complainant and A1 was performed, on 23/02/2005 at Cheranmahadevi. That was also registered. At that time, A1 was working as Revenue Inspector in Ambasamudram. The first accused was already married and got divorce also. That was known only after her marriage. After the marriage, she was living with the first accused and during that time, it came to her notice that the first accused is having illicit intimacy with so many women. A1 also misappropriated 50 sovereigns of jewels, which belonged to her. He refused to live with her. In spite of repeated panchayat, A1 did not consent for joint living. So, he filed HMOP No.5 of 2008



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before the Sub Court, Ambasamudram and that was dismissed. Even during the course of subsistence of the earlier marriage, he married this petitioner as second wife and begotten a child also. When that was enquired, the accused 3 to 6 criminally intimidated her. A2 also made a criminal intimidation. On the basis of the complaint given by the de-facto complainant, A1 was suspended. On knowing the complaint, on 25/01/2015, A1 and A2 came to her house at about 7.00 pm, demanded consent for divorce. They also criminally intimidated her. At the intervention of the neighbours, they went away from the place. Her brother was also criminally intimidated by A1. So, on the basis of the complaint given by the de-facto complainant, a case in crime No.4 of 2015 for the offences under sections 498(A), 494, 406, 506(i) IPC and section 4 of the TNPHW Act has been registered and after completing the formalities of investigation, final report was also filed and it has taken cognizance in CC No. 29 of 2018 by the Judicial Magistrate, Shenkottai.

3. Seeking quashment of the same, this petition has been filed by the second accused, who is stated to be the second wife of A1 on the ground that Crl.OP(MD)No.4088 of 2015 was allowed by this court, on 26/07/2017, which was



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filed by A3 to A8. Now only two accused persons are facing the trial. Even as per the allegation made in the final report and in the complaint, according to the petitioner, none of the allegations attract any of the ingredients of the offence against this petitioner/A2.

4.Heard both sides.

5.It is seen that in Crl.OP(MD)No.4088 of 2015 which was moved by A3 to A5, this court has made an observation that no serious allegation has been made against this petitioner and only out of frustration and helpless condition of the de-facto complainant, all the accused persons have been implicated. The above said petition was allowed on 26/07/2017, which is also relevant for our consideration.

6.In so far as this petitioner/A2 is concerned, the allegation against her is that A1 married her during subsistence of the first marriage and when that was questioned, she joined hands with A1 and criminally intimidated.



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7.Here in the final report, the offence under section 506(1) IPC has been alleged against this petitioner. Except stating that when her marriage with A1 was questioned, she was criminally intimidated. No further particulars were made. It has been simply stated that she was intimidated along with A1.

8.For attracting the offence under section 506(i) IPC, it must be clearly brought on record to the effect that because of the criminal intimidation, the de-facto complainant entertained fear of death. Here absolutely, there is no such allegation.

9.It appears that there was wordy quarrel between the de-facto complainant and A1 as well as this petitioner, which has been given a criminal colour. So the ingredients of section 503 IPC are not attracted.

10.Since only bald allegations have been made against this petitioner on that sole ground the criminal proceedings against the petitioner is liable to be quashed.



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11.In the result, this criminal original petition is **allowed**. The impugned CC No.29 of 2018 on the file of the Judicial Magistrate, Shenkottai, Tirunelveli is hereby quashed in respect of the petitioner/A2. Consequently, connected Miscellaneous Petition is closed.

17.03.2022

Internet:Yes/No
Index:Yes/No
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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.



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- 1.The Judicial Magistrate,
Shenkottai.
- 2.The Inspector of Police,
All Women Police Station,
Tenkasi,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J . ,

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