



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.20259 of 2018

and

Crl.MP (MD)Nos.9346 and 9347 of 2018

- 1.Viayakumari
- 2.Manimekkalalai
- 3.Chinnasamy Devar
- 4.Natarajan @ Muthuramalingam
- 5.Chandra

: Petitioner/A2 to A6

Vs.

- 1.The State represented by
The Inspector of Police,
All Women Police Station (AWPS)
Oddanchatram,
Dindigul District.
(Crime No.4 of 2015)

: R1/Complainant

- 2.Valarmathi

: R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.35 of 2016 on the file of the Judicial Magistrate, Oddanchatram, Dindigul District and quash the same.

For Petitioners : Mr.M.Vivek Kumar

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

For 2nd Respondent : Mr.T.Vallavan Kothai
(Legal Aid Counsel)

O R D E R

This criminal original petition is filed seeking quashment of CC No.35 of 2016 on the file of the Judicial Magistrate, Oddanchatram, Dindigul District.



2.The case of the prosecution in brief:-

The marriage between the de-facto complainant and A1 was performed on 21/04/2011. At the time of marriage, she was provided with sufficient jewels and cash, apart from the house-hold articles. The first accused was working in the Police Department. He was already married and got two children. The second marriage was performed. So after the marriage, they were residing together. At that time, A1 used to come to the house in a drunken mood, tortured her stating that she is as not a match for him. He also received 6 sovereigns of jewels and pledged the same. After sometime, the first accused, by having illegal intimacy with one Selvi @ Muthulakshmi, she was ill-treated. He was also joined with his sister and forced her to abort the child. After the 4th month of pregnancy, she was driven out of the house. A female child was born, on 09/02/2012. The child was not visited, either by the husband or in-laws. They have also demanded 15 sovereigns of jewels and Rs.5,00,000/- cash as dowry. So the de-facto complainant lodged a complaint before the AWPS, on 21/02/2012. Since A1 was working in the Police Department, no action was taken. So again, on 24/02/2014, a complaint was sent to the Superintendent of Police, Dindigul. Even after that, no action was taken. So she filed a petition by invoking the jurisdiction of the Magistrate under section 156(3) Cr.P.C and as per the direction of the court, now the case in Crime No.4 of 2015 has been registered against all the accused persons and during the course of investigation, materials have been collected and final report was also filed before the Judicial Magistrate, Oddanchatram, which was also taken cognizance in CC No.35 of 2016.

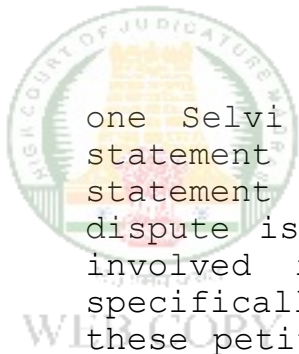
3. Seeking quashment of the same, A2 to A6 have preferred this criminal original petition. It was brought to the notice of this court during the course of argument that the 4th petitioner namely Natarajan @ Muthuramalingam and the 5th accused namely Chandra are dead and only the petitioners 1 to 3 are before this court.

4. Heard both sides.

5. The allegation against the petitioners is that they have also joined hands with A1, in ill-treating the de-facto complainant stating that she is not fit for the matrimonial life and threatened not to bear the child. He also driven the de-fact complainant from the house.

6. So from the records, it is seen that it was the second marriage between A1 and the de-facto complainant. Already A1 got two children through the first marriage. After the performance of the second marriage, they were living together for sometime and the de-facto complainant also conceived.

7. According to the de-facto complainant, only after that, problem arose between them and A1 was having illicit intimacy with



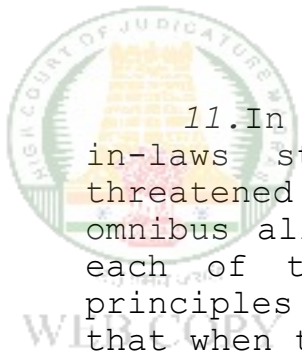
one Selvi @ Muthulakshmi and started ill-treating her. From the statement of the witnesses as well as from the complaint and the statement of the de-facto complainant, it is seen that the main dispute is between herself and A1. But how, these petitioners are involved in the above said matrimonial affairs has not been specifically stated. Only bald allegations have been made against these petitioners. In what way, these petitioners also harassed the de-facto complainant has not been clearly stated. So on the basis of the bald allegation, the petitioners have been roped.

8. Noting that even though the second respondent has been served with notice, he has not appeared. So a Legal Aid counsel was appointed to defend her case. According to him, only because of the ill-treatment meted out to the de-facto complainant at the hands of these petitioners also, the complaint was given and materials have been collected during the course of investigation and nothing is available on record to discredit the statement of the witnesses.

9. The learned counsel appearing for the petitioners would rely upon the latest decision of the Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others (Criminal Appeal No.195 of 2022, dated 08/02/2022)***, wherein the Hon'ble Supreme court, after going through the entire earlier judgments including the judgment, which is celebrated one on this aspect namely ***Preeti Gupta and another Vs. State of Jharkhand and another (2010) 7 SCC 667***.

10. I am of the considered view of the considered view that if allegations against the in-laws are omnibus in nature, then they are entitled for discharge. Para 18 of the above said decision is relevant for our discussion, which runs like this:-

"18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them."



11.In that case also, an allegation has been made against the in-laws stating that all of them harassed her mentally and threatened to terminate her pregnancy. So these are only general and omnibus allegations. A specific overtact alleged to have played by each of the accused has not been specifically stated. So the principles that has been stressed by the Hon'ble Supreme Court is that when the general and omnibus allegations have been made against the in laws, they are entitled for discharge.

12.Taking the advise of the Hon'ble Supreme court, if we go into the allegation that has been made against the petitioners, as mentioned earlier, they are only general in nature and except stating that they also joined hands with A1 in harassing and demanding money and threatened her not to bear child, no specific overtact has been attributed. So, as mentioned earlier, the main dispute is only between the husband and wife, in which these petitioners are no way involved. So I am of the considered view that continuation of the proceedings against the petitioners will amount to abuse of process of court and law. So following the judgment in the case of Preeti Gupta and another Vs. State of Jharkhand and another (2010)7 SCC 667 and Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others (Criminal Appeal No.195 of 2022, dated 08/02/2022), this petition is liable to be allowed.

13.In the result, this criminal original petition is **allowed in respect of the petitioners 1 to 3** and the impugned CC No.35 of 2016 on the file of the Judicial Magistrate, Oddanchatram, is hereby quashed as against them. Since, the petitioners 4 and 5 are died, this petition is **dismissed as abated** as against them. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS I)

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Sub Assistant Registrar(CS)

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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.



To

1 The Judicial Magistrate,
Oddanchathiram, Dindigul district.

2 The State represented by
The Inspector of Police,
All Women Police Station (AWPS)
Oddanchatram,
Dindigul District.

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

+1 CC to Mr.M.VIVEK KUMAR, Advocate (SR-14771[F] dated 28/03/2022)

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MK/04.04.2022/5P/5C