



Crl.O.P.(MD)Nos.22642 of 2018 and 19349 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).Nos.22642 of 2018 and 19349 of 2021

and

Crl.M.P.(MD).Nos.10648, 10649 of 2018, 10797 and 10798 of 2021

Crl.O.P.(MD).No.22642 of 2018:

Mannan

... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Ambasamudram,
Tirunelveli District.
(Cr.No.26/2017)

...1st Respondent/Complainant

2.Ribaya Rajathy

...2nd Respondent/De-facto
complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in C.C.No.96 of 2018 on the file of the Judicial Magistrate Court, Ambasamudram and to quash the same with regard to the petitioner/accused No.1.

Crl.O.P.(MD).No.19349 of 2021:

Abubucker

... Petitioner

Vs.



Crl.O.P.(MD)Nos.22642 of 2018 and 19349 of 2021

1.The State represented by
The Inspector of Police,
All Women Police Station,
Ambasamuthiram,
Tirunelveli District.
(Crime No.26/2017)

...1st Respondent/Complainant

2.Ribiya Rajathy

...2nd Respondent/De-facto
complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the charge sheet in C.C.No.96 of 2018 on the file of the learned Judicial Magistrate, Ambasamuthiram and quash the same.

For Petitioner : Mr.A.Robinson
For R-1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor
For R-2 : Mr.T.A.Ebenezer

(In both petitions)

COMMON ORDER

The petitioners are accused in C.C.No.96 of 2018 pending on the file of the learned Judicial Magistrate, Ambasamuthiram for the offences under Section 498(A), 294(b), 323 and 506(1) IPC. The allegation in the final report is that the first accused is the husband, the second accused is the mother-in-law (since deceased) and the third accused is the father-in-law. The marriage was solemnized between the first accused and the defacto complainant on



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18.03.2012. All the accused demanded dowry and the defacto complainant gave 50 sovereigns of gold jewels along with other articles as dowry. In July 2015, the defacto complainant and the first accused went to Saudi Arabia for living together. There the defacto complainant was subjected to sexual harassment as well as dowry harassment. Hence, she gave a complaint, which was registered in Crime No.26 of 2017 for the offences under Section 498(A), 406, 294(b), 323, 506(1) IPC and Section 4 of Dowry Prohibition Act, 1961. After investigation, the first respondent filed a final report under Section 498(A), 294(b), 323 and 506(1) IPC as against both the petitioners herein and the mother of the petitioner in Crl.O.P.(MD).No.22642 of 2018, who is no more.

2. The Criminal Original Petition in Crl.O.P.(MD).No.22642 of 2018 is filed by the husband of the defacto complainant, seeking to quash the charge sheet in C.C.No.96 of 2018 on the file of the learned Judicial Magistrate, Ambasamudram on the ground that most of the allegations made against the petitioner/husband of the defacto complainant have taken place in Saudi Arabia, where the husband and wife lived and therefore, the Prosecution ought to have obtained sanction under Section 188 CrPC from the Central Government.



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3. The Criminal Original Petition in Crl.O.P.(MD).No.19349 of 2021 is filed by the father-in-law of the defacto complainant, seeking to quash the charge sheet in C.C.No.96 of 2018 on the ground that the matrimonial discord between the husband and wife has led to the filing of complaint as against him. The learned counsel for the petitioner would submit that the allegations are primarily against the husband of the defacto complainant and in fact, the husband and wife never lived with the father-in-law. They were living in Saudi Arabia for some time.

4 (a). The learned Additional Public Prosecutor appearing for the first respondent would submit that no sanction is required under Section 188 CrPC for prosecuting the petitioner, since the offence was committed firstly in India and thereafter continued in Saudi Arabia and after that once again continued in India. He also submitted that in the light of the judgment of the Hon'ble Supreme Court in *Sartaj Khan Vs. State of Uttarakhand* reported in **2022 SCC OnLine SC 360** that unless all the allegations or the offence in its entirety was committed abroad, sanction under Section 188 CrPC is not required. Since part of the offence was committed in India and continued in abroad, sanction under Section 188 CrPC is not required.



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(b) The learned Additional Public Prosecutor would further submit that as regards the petitioner in CrI.O.P.(MD).No.19349 of 2021, there is an allegation that the petitioner/father-in-law of the defacto complainant also demanded dowry and he is liable for the offence under Section 498 A IPC.

5. The learned counsel for the defacto complainant reiterated the submissions made by the learned Additional Public Prosecutor and submitted that no sanction is required under Section 188 CrPC for prosecuting the petitioner in CrI.O.P.(MD).No.22642 of 2018. As regards the petitioner in CrI.O.P.(MD).No.19349 of 2021, the learned counsel submitted that there are allegations which would implicate the petitioner for the offence under Section 498 A IPC. The defacto complainant has made specific allegations as against the petitioner / father-in-law also.

6. Heard the learned counsel for the petitioners and the defacto complainant and the learned Additional Public Prosecutor appearing for the first respondent.

7. As regards the petitioner in CrI.O.P.(MD).No.22642 of 2018, the Hon'ble Supreme Court in a recent judgment in the case of ***Sartaj Khan Vs.***



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State of Uttarakhand reported in **2022 SCC OnLine SC 360**, has held as follows:

“ 14. As the facts and circumstances of the case indicate, a part of the offence was definitely committed on the soil of this country and as such going by the normal principles the offence could be looked into and tried by Indian courts. Since the offence was not committed in its entirety, outside India, the matter would not come within the scope of Section 188 of the Code and there was no necessity of any sanction as mandated by the proviso to Section 188. We, therefore, reject the first submission advanced by Mr. Sharma.”

Admittedly, there are allegations as against the petitioner in Crl.O.P. (MD).No.22642 of 2018 that he had committed the offence under Section 498 A IPC in India, which had continued in Saudi Arabia. Therefore, in view of the above judgment of the Hon'ble Supreme Court, this Court is of the view that sanction under Section 188 CrPC is not required for prosecuting the petitioner. However, it is open to the petitioner to raise all other contentions before the Trial Court. Hence, Crl.O.P.(MD).No.22642 of 2018 is dismissed.

8. As regards the petitioner in Crl.O.P.(MD).No.19349 of 2021, he is the father-in-law of the defacto complainant. The allegation against him is that on 29.04.2012, the defacto complainant had complained to the petitioner, his wife



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who are the parents-in-law of the defacto complainant and their other sons about the harassment caused to her. However, they did not help the defacto complainant, instead, they also demanded jewels and stated that if she brings the jewels, they would let her live with her husband peacefully. She had also given a further statement on 15.11.2017 stating that on 29.04.2012 when she complained to her father-in-law and mother-in-law, they supported their son. In the further statement, the version is slightly different from the earlier statement. However, this Court is conscious of the fact that these contradictions per se cannot be gone into in a petition under Section 482 CrPC. But the allegations are very vague and it is made generally as against both the parents and brothers of the husband of the defacto complainant. The allegations have to be specific and we cannot allow the Prosecution to continue merely on the basis of a single incident which is vague, insofar as the petitioner in Crl.O.P.(MD).No.19349 of 2021 is concerned. Further, it is the case of the petitioner that the couple were living abroad and there were differences between the husband and wife, they hardly lived in this petitioner's house and the entire prosecution is to wreak vengeance. Therefore, since the allegations against the father-in-law is vague and considering the facts and circumstances of the case, this Court is of the view that the charge sheet in C.C.No.96 of 2018, insofar as the petitioner in Crl.O.P.(MD).No.19349 of 2021 is concerned, is liable to be quashed.



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9. The learned Judicial Magistrate, Ambasamudram is directed to complete the trial in C.C.No.96 of 2018 as against the petitioner in Crl.O.P.(MD).No.22642 of 2018 as expeditiously as possible and in any event, within a period of four (4) months from the date of receipt of a copy of this order.

10. Accordingly, the Criminal Original Petition in Crl.O.P.(MD).No.22642 of 2018 is dismissed and the Criminal Original Petition in Crl.O.P.(MD).No.19349 of 2021 is allowed. Consequently, connected miscellaneous petitions are closed.

07.12.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

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



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SUNDER MOHAN, J.

Lm

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