



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.20490 of 2021
and
Cr.M.P. (MD)No.11665 of 2021

Subiya ... Petitioner/
Accused No.4

Vs.

1.The Deputy Superintendent of Police,
District Crime Branch,
Madurai. ... 1st Respondent/
Investigating Officer

2.The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.
(Crime No.16 of 2020) ... 2nd Respondent/
Complainant

3.Ithayavani ... 3rd Respondent/
Defacto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in C.C.No.41 of 2021 on the file of the learned Judicial Magistrate No.I, Usilampatti and quash the same.

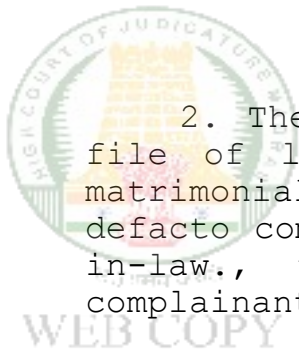
For Petitioner : Mr.J.Selvam

For Respondents : Mr.E.Antony sahaya Prabahar
Additional Public Prosecutor for R.1 & R2

Mr.K.R.Laxman for R.3

ORDER

Heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and the learned counsel appearing for the defacto complainant.



2. The petitioner is facing trial in C.C.No.41 of 2021 on the file of learned Judicial Magistrate No.1, Usilampatti. It is a matrimonial complaint. The first accused is the husband of the defacto complainant. While the respondents 2 and 3 are the parents-in-law., the petitioner is the sister-in-law of the defacto complainant.

3. The counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds.

4. He would point out that in this case, there were as many as three investigation Officers. According to him, the petitioner got married wayback on 04.12.2016. The marriage between her brother and the defacto complainant took place more than two and half years later, that is, on 15.03.2018. The petitioner came down to India only to attend her brother's wedding and she left India on 03.08.2018. she returned to India only last year. Though the petitioner's counsel also relied on a couple of decisions to show that vague allegations made against sister-in-law cannot result in making her to undergo the trial. Though all contentions advanced by the learned counsel appearing for the petitioner are highly persuasive, in view of the contentious nature of the facts involved, I am not in a position to consider the same. This is particularly because the counsel for the defacto complainant drew my attention to the statement of the defacto complainant recorded on 10.02.2021, in which, there is a reference to the incident said to have taken place on 07.06.2018. It is for this reason I am not in a position to go into the factual veracity of the rival contentions. The Hon'ble Supreme Court recently has reiterated that at the time of considering a quash petition, the Court ought not to go into the genuineness or reliability of the statements recorded under Section 161 Cr.P.C.

5. Therefore, this Criminal Original Petition is dismissed, leaving open all the contentions and defences of the petitioner. At the same time, I have to necessarily address some of the concerns raised by the learned counsel appearing for the petitioner.

a)The petitioner states that the next hearing is on 27.01.2022. The petitioner is permitted to surrender before the trial Court and execute sureties and the same shall be accepted on the same day;

b)The petitioner is permitted to file a petition under Section 205 Cr.P.C. She can execute a special vakalat in favour of a counsel and the said counsel can represent the petitioner at all stages of the hearing. He can represent the petitioner at the time of questioning as well as at the time of examination under Section 313 Cr.P.C. If need be, the Court below is of the view that petitioner's appearance is necessary, the petitioner can appear through Video Conferencing. However, the petitioner has to physically appear before the trial Court at the time of

<https://hcservices.mca.gov.in/services> self judgment;



c)The petitioner's husband is presently employed abroad. Therefore, the petitioner's right to travel abroad cannot be denied. The Court below is directed to grant permission to the petitioner to leave India, so that, she can rejoin her husband. I have not gone into the merits of matter.

6. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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.Judicial Magistrate No.I,
Usilampatti.
- 2.The Deputy Superintendant of Police,
District Crime Branch,
Madurai.
- 3.The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-1527[F] dated 12/01/2022)

Crl.O.P.(MD)No.20490 of 2021

and

Cr.M.P.(MD)No.11665 of 2021

11.01.2022

MGJ(04.02.2022) 3P 6C