



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)Nos.3860 of 2017 and 16786 of 2019

and

Crl.M.P (MD) .Nos. 2830 of 2017,2091 of 2019,9977 of 2019

and

9978 of 2019

(Through video Conference)

Crl.O.P (MD)No.3860 of 2017:

1.M.Paulkamu

2.P.Vijayarani

3.Udhaya Sakthikamu

.. Petitioners/ Accused 1 to 3
Vs.

1.The State rep. by,
The Inspector of Police,
All Women Police Station (AWPS),
Thirumangalam,
Madurai District.

(In Crime No.57 of 2015) .. 1st Respondent/Complainant

2.Arul Preethi

.. 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code, to call for the records of the charge sheet in C.C.No.132 of 2016 on the file of the learned Judicial Magistrate, Thirumangalam and quash the same as illegal.

For Petitioners

: No appearance

For R1

: Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

For R2

: No appearance

Crl.O.P (MD)No.16786 of 2019:

Kamukathiravan

.. Petitioner/ Sole Accused

Vs.

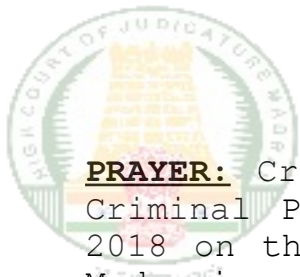
1.The Inspector of Police,
S.S.Colony Police Station,
Madurai.

(Crime No.708 of 2015)

.. 1st Respondent/Complainant

2.P.Vijayarani

.. 2nd Respondent/
Defacto Complainant



PRAYER: Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.6 of 2018 on the file of the learned Additional Mahila Court (JM-Level) Madurai and quash the same.

WEB COPY

For Petitioner : No appearance

For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

For R2 : No appearance

COMMON ORDER

Since the parties are one family members and relatives, these criminal original petitions are taken up together and disposed of by way of this common order.

Crl.O.P. (MD) .No.3860 of 2017:

2. The brief facts of the case is that based on the complaint given by one Arul Preethi, wife of Kamu Kathiravan, the first respondent police has registered a case in Crime No.57 of 2015 on 02.06.2015. As per the complaint, the defacto complainant got married to Kamu Kathiravan on 04.09.2014 and she was living with her husband separately. However, the parents of her husband and brother of her husband are demanding money and jewel and also forcing her husband to pay the loan availed by them from the Bank. Based on the said complaint, investigation has been conducted by the first respondent police and final report also filed against the petitioners herein for the offence under Sections 498A and 506(i) IPC. The learned Judicial Magistrate, Thirumangalam has taken the complaint on file in C.C.No.132 of 2016.

3. To quash the said prosecution, the present petition is filed on the ground that even according to the version of the defacto complainant, the ingredient of Section 498A IPC is not made out and the provisions has been misused with ulterior motive to harass the petitioners and extract money from them.

4. Further, it is stated that the husband of the petitioner, who is none other than the son of the petitioners 1 and 2 and brother of the third petitioner had abused them with filthy language on 12.03.2015 and a complaint has been lodged before S.S.Colony police station and taken for investigation in Crime No.708 of 2015 for the alleged offence under Sections 294(b), 323 and 506(i) IPC r/w Section 4 of Tamilnadu Prohibition of Harassment of Women Act. Therefore, to escape from the criminal liability, the defacto complainant, namely, Arul Preethi has filed the present complaint to save her husband and without proper investigation, the police has filed charge sheet.



5. This Court, on perusing the record and after hearing the submissions made by the learned Additional Public Prosecutor finds that the dispute between the family members in respect of the property has led to complaint and counter-complaint. The police, on proper investigation of the complaint given by Arul Preethi has completed the investigation and filed final report, which has been taken on file by the learned Judicial Magistrate, Thirumangalam in C.C.No.132 of 2015. Since there is *prima facie* material for prosecuting the petitioners herein, it is for the petitioners to face the trial and there cannot be a short-circuit to the criminal prosecution, when there is *prima facie* material evidence is available to prosecute the petitioners.

6. Hence, this criminal original petition filed to quash the criminal proceedings is dismissed. The learned Judicial Magistrate, Thirumangalam is directed to proceed with the trial and complete the same within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Crl.O.P. (MD) .No.16786 of 2019:

7. This petition is filed by Kamu Kathiravan, a sole accused, who is facing criminal prosecution in C.C.No.6 of 2018 on the file of the learned Additional Mahila Court, (Judicial Magistrate Level), Madurai.

8. The defacto complainant in this case is none other than the mother of the petitioner. The complaint indicates that due to some money dispute and misunderstanding between the mother-in law and daughter-in-law, the petitioner herein in support of his wife, has abused his own mother with filthy language and threatened her with dire consequence and also hit her causing simple injury. Hence, case in Crime No.708 of 2015 for the offence under Sections 294(b), 323 and 506(i) IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act registered. After completion of investigation, police has filed final report and the same has been taken on file by the Additional Mahila Court (Judicial Magistrate level) in C.C.No.6 of 2018.

9. Though it is contended that it is a false complaint and no material evidence to prosecute the petitioner is available, from the records, this Court finds that though the complaint was given against five persons including the petitioner, the police, after proper investigation and recording the statement of witnesses, had filed the final report only against the petitioner herein, who is none other the son of the defacto complainant. It is also brought to the notice of this Court by the learned Additional Public Prosecutor that the wife of the petitioner herein has filed a case against the



defacto complainant, her husband and her brother-in-law and the same been investigated and final report filed and taken on file by the learned Judicial Magistrate, Thirumangalam in C.C.No.132 of 2016.

10. On perusing the record, this Court finds that the petitioner herein is trying to short-circuit the prosecution, which is based on the material evidence for the alleged offence and the defacto complainant being his own mother, there is no reason to suspect the concoction and improper investigation.

11. Hence, this criminal original petition is dismissed. The learned Judge, Additional Mahila Court (JM Level), Madurai is directed to proceed with the trial and complete the same within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Assistant Registrar
(LA & MC)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

PJL

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,
Thirumangalam.
- 2.The Judge,
Additional Mahila Court(Judicial Magistrate Level),
Madurai.
- 3.The Inspector of Police,
All Women Police Station (AWPS),
Thirumangalam,
Madurai District.



4.The Inspector of Police,
S.S.Colony Police Station, Madurai.

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

**Crl.O.P. (MD) Nos.3860 of 2017
and 16786 of 2019
02.02.2022**

MGJ(02.03.2022) 5P 6C