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Crl.O.P.(MD)No. 18804 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28/06/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.18804 of 2019

and

Crl.MP(MD)Nos.11042 and 11043 of 2019

1.V.Raj

2.Dr.V.Thangaraj

: Petitioners/A3 and A4

Vs.

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

: R1/Complainant

2.Maheshwari

: R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in connection with PRC No.16 of 2018 on the file of the Judicial Magistrate, Sankarankovil, Tirunelveli District, relating to Crime No.1 of 2017 on the file of the Inspector of Police, All Women Police Station, Sankarankovil, Tirunelveli District and quash the same



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Crl.O.P.(MD)No. 18804 of 2019

For Petitioner : Mr.S.Palani Velayutham
For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor
For 2nd Respondent : Mr.T.Indrachithu

O R D E R

This criminal original petition is filed seeking quashment of the case in PRC No.16 of 2018 on the file of the first respondent police.

2.The case of the prosecution in brief:-

The victim namely Maheswari and Al-Ranjith Kumar were loved each other for seven years. When the victim was studying in St.Mary's Teacher Training School at Tenkasi, Al-Ranjith Kumar took her to a lodge and against her consent, had sexual intercourse. That was repeated in 2013 and continuously, it was repeated. On 09/02/2016, the marriage betrothal was performed. He promised to marry the victim after six months. Later he delayed. So, it was brought to the notice of the relatives. They told that some other girl would be arranged for Al. So the first accused refused to marry her stating that without the consent of his parents and relatives, he could not marry the victim.



Crl.O.P.(MD)No. 18804 of 2019

On 16/06/2016, at the instigation and presence of the accused persons, A1 married one Samayamuthumari. When that was questioned on 06/11/2016, by the maternal Uncle of Maheswari, they abused in fifthly language and also criminally intimidated. Based on the complaint given by the de-facto complainant, a case in Crime No.1 of 2017 was registered for the offences under sections 147, 341, 294(b), 506(i), 417, 376 and 109 IPC. At the conclusion of the investigation, final report was filed against the accused persons and it was taken cognizance in PRC No. 16 of 2018 by the trial court stating that A1 committed the offences under sections 147, 417 and 376 IPC; A2 to A4 under sections 147, 341, 294(b), 506(i) and 109 IPC and A5 and A6 for the offences under sections 147, 417 and 109 IPC.

3. Seeking quashment of the same, A3 and A4 have preferred this petition on the ground that even as per the allegation, that has been made in the FIR and in the final report, no offences are attracted against them.

4. Heard both sides.



Crl.O.P.(MD)No. 18804 of 2019

5.As mentioned earlier, it is seen that there was love affair between A1 and the victim girl. According to the prosecution, on the promise of marriage, the victim was subjected to sexual intercourse by A1. Later, he refused to marry her. So, he is facing the charges for the offences under sections 147, 417 and 376 IPC. So far as these petitioners are concerned, who are arrayed as A3 and A4. It is alleged that they have committed the offences under sections 147, 341, 204(b), 506(i) and 109 IPC.

6.As per the final report, these two petitioners were alleged to have been present during the marriage between A1 and Samayamuthumari. It is also alleged that only these petitioners instigated A1 to marry another girl. When that was questioned, on 06/07/2016, these petitioners along with the another accused Karuppayee, abused the de-facto complainant in filthy language and criminally intimidated. It appears that the allegations are factual in nature.

7.The learned counsel appearing for the petitioners would submit that absolutely, no material has been collected by the Investigating officer and even *prima facie* to connect these petitioners with regard to the above said occurrence. But there is allegation and averment to the



Crl.O.P.(MD)No. 18804 of 2019

effect that these petitioners alleged to have abused the de-facto complainant in filthy language and also criminally intimidated. Whether there was instigation, abetment of the petitioners to marry another girl, is a matter for consideration by the trial court.

8. Even the learned counsel appearing for the petitioners would submit that there was some improvement by the de-facto complainant, absolutely there is no material evidence to show the recent intercourse between A1 and the victim girl. The case itself has been registered on the misconception of facts, which cannot be taken into account at this stage. I find no factual aspect, which can be gone into in this petition. Simply because, the 2nd petitioner is the practising doctor that could not give any benefit to him for quashing the proceedings. The proceedings must be taken in its logical conclusion and the petitioners must prove their innocence before the trial court.

9. In the result, this criminal original petition is **dismissed**. However, considering the fact that the second petitioner is a practising doctor his personal appearance is alone dispensed with before the trial court on condition that within 15 days from the date of receipt of a copy of



Crl.O.P.(MD)No. 18804 of 2019

this order, he must appear before the trial court and file an undertaking affidavit that he will appear as and when required by the court, the attested photograph must be attached in the affidavit and he must ensure that he is properly represented by an Advocate. Consequently, connected Miscellaneous Petitions are closed.

28.06.2022

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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CrI.O.P.(MD)No. 18804 of 2019

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CrI.O.P. (MD)No.18804 of 2019

28/06/2022