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Crl OP No.1210 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No.1210 of 2021
and Crl.M.P.Nos.737 and 738 of 2021

1. Mrs. Kalaiselvi

2. Mr.Krishnamoorthy

... Petitioners/Accused 2 & 3

Versus

1. The State Rep by
Inspector of Police,
All Women Police Station, Panruti
Cuddalore District.
(Crime No.17/2020)

... 1st Respondent/Complainant

2. Mrs.Shanmugapriya
Complainant

... 2nd Respondent/ Defacto

Prayer : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C.No.93 of 2020 on the file of the learned Judicial Magistrate No.1, Panruti and quash the same.

For Petitioner : Mr.M. Mohammed Rafi

For Respondent : Mr.A.Damodaran
Additional Public PROsecutor, for R1



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Mrs.S.Senthil kumar – for R2

ORDER

This Criminal Original Petition has been filed is to quash the Final Report in C.C. No. 93 of 2020 for the offence under Sections 498A, 294(b), 506(i) of the Indian Penal Code.

2. It is alleged in the Final Report that the petitioners are the father-in-law and mother-in-law of the Defacto Complainant; that A1 is the husband of the Defacto Complainant; that the marriage between the second respondent and the first accused took place on 14.07.2013; that the second respondent had gifted gold articles and money to the first accused; that initially after marriage the second respondent was living along with the first accused in the house of the petitioners; that the petitioners had always prevented the second respondent from being together with the first accused ; that the first petitioner had always caused harassment to the Defacto complainant by stating that A1 was not suitable for her and instigated A1 to cause cruelty on the second respondent; that the accused had further caused harassment to the second respondent stating that certain documents relating to house property



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belonging to the petitioners was missing; that the petitioners always never allowed the first accused to live happily with the second respondent; that the petitioners had abused the second respondent in filthy language; that when witnesses L.W.2 to 10 had arranged for a Panchayat, the petitioners did not respond positively and had stated that the first accused is staying abroad and they would respond only after his return.

3. The learned counsel for the petitioner would submit that the matrimonial difference between the first accused and the second respondent is sought to be projected as a case of cruelty under Section 498-A of IPC; that the allegations would not attract any of the offences alleged against the petitioners; that the respondent has violated the guidelines issued by the Hon'ble Supreme Court in ***Lalitha kumari v. Government of U.P. & Ors.***, reported in ***CDJ 2013 SC992***, wherein the Hon'ble Supreme Court had held that no FIR can be registered in the matrimonial dispute without conducting a preliminary enquiry. The learned counsel would submit that even if the entire allegations are accepted to be true, the offence under Section 498(A) of IPC is not made out. The learned counsel further submitted that there is a divorce petition filed by A1 before the Sub Court, Panruti, in HMOP No.49 of 2020. The



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impugned complaint is nothing but to harass and arm-twist the petitioners and it is clearly an abuse of process of law.

4. The learned counsel for the Defacto Complainant per contra read to this Court the allegations in the impugned Final Report and submitted that the allegations constitute the offences mentioned in the Charge Sheet. The second respondent was subjected to cruelty at the hands of the petitioners' and they never allowed the first accused to live happily with the second respondent. The learned counsel further submit that there are allegations in the FIR that she was subjected to severe cruelty and she was also not provided proper food.

5. The learned counsel relied upon the judgment of the Delhi High Court in ***Om Prakash v. State (Govt. of Nct of Delhi) & Anorther*** in Crl M.C. No.4944 of 2015 & Crl M.A.No.17713 of 2015, wherein the Delhi High Court had held that even if there is no specific demand for dowry when there are allegations to show that the accused had taunted the complainant for not bringing sufficient dowry, the offence under Section 498A IPC is made out. The learned counsel also relied upon the judgment of the Punjab and Hariyana High Court in ***Mahesh Inder***



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Walia and others v. The State of Punjab and another, in Crl. Misc.

No.M-25670 of 2010, wherein the High Court relying upon the judgement of the Hon'ble Supreme Court held that inherent powers should not be exercised to stifle a legitimate prosecution. The learned counsel therefore submitted that in the instant case there are allegations and the offences are made out and this Court shall not exercise its power under Section 482 of the Code of Criminal Procedure.

6. The learned Additional Public Prosecutor also submitted that there are allegations which has been adjudicated only before the Trial Court and hence prayed for dismissal of the quash petition.

7. This Court on perusal of the impugned Final Report finds that the allegations against the father-in-law and mother-in-law are that they had allegedly harassed the second respondent and did not permit the first accused to live happily with the second respondent. All the allegations only point out to such alleged harassments. Even according to the Final Report there is no allegation of any dowry demand or cruelty on account of the said dowry demand. Section 498-A provides for two types of cruelty. The first type of cruelty is that which is made in connection with



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dowry demand, the second type of cruelty is that which is of such a nature which would drive a woman to commit suicide. Admittedly in this case there is no demand for dowry and hence the first type of cruelty is not made out. The harassments alleged in the impugned Final Report and the materials in support of it, do not suggest that the cruelty alleged is of such a nature as to drive a woman to commit suicide. The incidents alleged are normal happenings in any family and the Defacto complainant has exaggerated those versions in order to implicate the petitioners for the alleged offences. Hence this Court is of the view that the offence under Section 498-A of IPC is not made out.

8. As regards the offence under Section 294(b) IPC, it is well settled that obscene words must be uttered by the petitioners in the public place to the annoyance of others. The Hon'ble Supreme Court in the Judgement reported in **2022 LiveLaw (SC) 844 – N.S.Madhanagopal and another Vs. K.Lalitha**, had held as follows:

“It has to be noted that in the instance case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the



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accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC. To prove the offence under Section 294 of IPC mere utterance of obscene words are not sufficient but there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants accused annoyed others, it can not be said that the ingredients of the offence under Section 294 (b) of IPC is made out.

The said observation is squarely applicable to the facts of this case.

9. As regards the offence under Section 506(i) IPC, this Court has repeatedly held that there must be a real threat and mere words do not attract the offence of criminal intimidation under Section 506(i) IPC. The judgments relied upon by the learned counsel for the second respondent are not applicable to the facts of this case, as no offence is made out in the instant case.



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10. For the above reasons, this Court finds that the impugned Final Report is liable to be quashed as against the petitioners. The Criminal Original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

jv

09.06.2023

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

To

1. The Judicial Magistrate No.1,
Panruti.
2. The Inspector of Police,
All Women Police Station, Panruti
Cuddalore District.
3. The Public Prosecutor
Madras High Court.



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SUNDER MOHAN, J.

jv

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