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CRL.O.P.No.4421 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 4421 of 2021

and

Crl.M.P.Nos. 2826 and 2828 of 2021

C.Sarasammal

... Petitioner

Vs.

1. The State,
Rep. By the Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore.

2.D.Velumani

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to quash the Final Report in C.C.No.67 of 2018 pending trial on the file of the Judicial Magistrate, Mettupalayam.

For Petitioner : Mr.S.B.Viswanathan

For Respondents

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

For R2 : Mr.P.Balamurugan



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ORDER

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This petition has been filed to quash the Final Report in C.C.No.67 of 2018 pending trial on the file of the Judicial Magistrate, Mettupalayam, in so far as the petitioner concerned.

2.The case of the prosecution is that the second respondent got married to the first accused on 14.11.1999 . Due to their wedlock, second respondent gave birth to two children. Immediately after 10 days from the date of marriage, she was harassed by her husband under the influence of alcohol. He also demanded huge dowry and it was supported by his mother namely C.Sarasammal/ petitioner/second accused and thereafter, she was driven out from the matrimonial house and therefore, she had stayed in her parent's house. When she returned to the matrimonial house, she found that A1 is living with A3. Not only that, he had also demanded dowry. Hence, the complaint. On receipt of the said complaint, the first respondent registered the First Information Report in Crime No.47 of 2016 for the offences under Sections 498(A) and 506(i) of I.P.C. After conclusion of the investigation, the first respondent filed the Final Report and the same has been taken cognizance by the trial Court. There are totally three accused and the petitioner is arrayed as second accused.



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3. Heard both sides and perused the records. On perusal of the statement recorded from the witnesses it revealed that, petitioner supported the first accused in refusing the defacto complainant to reside in her matrimonial house. That apart, petitioner is living separately and not with the first accused. Further, the marriage was solemnized on 14.11.1999. However, in the year 2004 itself, second respondent deserted the first accused and had gone to her parent's house. In the year 2016, she visited the first accused's house and found that the first accused is living with the third accused. As far as the petitioner is concerned, she is not living with the first accused. Therefore, no allegation is made out as against the petitioner, since she is living separately and not with the first accused. Even then, the first respondent charged the petitioner for the offences under Sections 498(A) and 506(i) of I.P.C. There is absolutely no harassment by the petitioner in order to attract the offences under section 498(A) and 506(i) of I.P.C.

4. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India reported in **(2005) SCC (Crl.) 735** in the case of **Ramesh Vs. State of Tamil Nadu**, as follows:

“the allegations made against the husband, the in-laws, husband's brother and sister were bald allegations and



appeared to suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the FIR nor the charge sheet furnished the legal basis for the magistrate to take cognizance of the offences alleged against the in-laws of the complainant. It was held that with regard to allegations in the FIR and the contents of the charge sheet, none of the alleged offences under Sections 498(A), 406 and 506(i) and Section 4 of Dowry Prohibition Act, were made against the married sister of the complainant's husband who was undisputedly not living with the family of the complainant's husband. Accordingly, the proceedings against them were quashed. ”

5. The above judgment is squarely applicable to this case on hand. Further, the petitioner is the mother-in-law and she has been charged for the offence under Section 498(A) of IPC. Mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specifically if it happens soon after the wedding. Therefore, the offence under Section 498(A) of IPC is not at all attracted as against the petitioner.



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6. Insofar as the offence under Section 506(i) of I.P.C is concerned, to

attract the offence, threat and intention to cause an alarm are main ingredients.

The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner was only empty threats and they had no effect on the complainant.

7. In this regard, It is relevant to rely upon the judgment of this Court made in ***Crl.O.P.(MD)No.11030 of 2014*** in the case of ***Abdul Agis Vs. State through the Inspector of Police***, which reads as follows:-

“7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by



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words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings.”

8. In view of the above discussion, the entire proceedings cannot be sustained as against the petitioner and it is liable to be quashed.

9. Accordingly, the Criminal Original Petition stands allowed and the Final Report in C.C.No.67 of 2018 pending trial on the file of the Judicial Magistrate, Mettupalayam is hereby quashed as against the petitioner. Consequently, connected miscellaneous petitions are closed.

06.10.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
Sma/Apd



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To

WEB COPY

1. Judicial Magistrate, Mettupalayam
2. The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore.
3. The Public Prosecutor
Madras High Court.



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