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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.4948 of 2021

And

Crl.M.P.No. 3159 of 2021

1. Sudhakar

2. Mrs.Punithavathi (alias) Anjali ... Petitioners/Accused

Vs

1. Inspector of Police
All Women Police Station
Gingee
Thiruvannamalai District.

...1st Respondent/Complainant

2. Lakshmi

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.70 of 2018 on the file of the learned Judicial Magistrate, Gingee and quash the same.

For Petitioners : M/s. R.Prabhavathy

For 1st Respondent : Mr. S.Balaji
Government Advocate (Crl. Side)

For 2nd Respondent: No appearance

**ORDER**

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2. It is alleged in the final report that the second respondent and the first petitioner got married on 16.12.2007. The defacto complainant had gifted several articles as sreedana to the first petitioner; that on 03.10.2008 a child was born out of the wedlock; that she later came to know that the first accused had an illicit affair with another lady; that when the child became sick, the child was admitted in the hospital and the first petitioner did not bother to take care of the child; that whenever she requested him to take her to the matrimonial home, the first petitioner demanded dowry and caused harassment to her.

3. The learned counsel for the petitioners would submit that the marriage between the first petitioner and the second respondent was dissolved by the Judgment of the I Additional Family Court, Chennai, on the ground of cruelty. The defacto complainant remained ex-parte in the said proceedings. The impugned complaint was filed in 2017, three years after the decree of dissolution of marriage in February 2013. He would further submit that at



the time of filing of the complaint, the first petitioner was not the husband of the defacto complainant in order to attract the offence under Section 498-A IPC. He would further submit that the allegations against the second petitioner that she demanded Rs. one lakh in the year 2008 is an after thought. Hence, he prayed for quashing the final report.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that the impugned final report contains allegations which has to be adjudicated only during trial and hence, prayed for dismissal of the quash petition.

5. Though notice was served on the second respondent/defacto complainant, none has entered appearance on her behalf.

6. This Court finds that the allegations against the second petitioner is that she demanded dowry in the year 2008. The said occurrence even admitting to be true had taken place nearly 8 years before the impugned complaint was lodged. Thereafter, the first petitioner and the defacto complainant had been living together for some time. Hence, the allegations



against the second petitioner is without any basis and appears to be clearly an after thought. The said allegation is mala fide. Hence, the offence under Section 4 of dowry Prohibition Act against the second petitioner is not made out.

7. As regards the first petitioner, it is alleged that admittedly differences arose between the first petitioner and the defacto complainant since the first petitioner was allegedly in illicit relationship with another lady. There is no other allegation suggesting that the acts constituted the offence under Section 498-A IPC. Further, the FIR was lodged nearly three years after the decree of dissolution of marriage on 26.02.2013. The impugned final report apart from narrating the incidents indicating that there were disputes between the husband and wife do not make out the offences under Section 498-A IPC. Further there is no real threat alleged in order to constitute the offence of criminal intimidation. Thus none of the offences are made out even if the allegations are accepted to be true.



8. In view of the above, this Criminal Original Petition is allowed and the final report in C.C.No.70 of 2018 on the file of the learned Judicial Magistrate, Gingee is quashed. Consequently, connected Civil Miscellaneous Petition is also dismissed.

24.03.2023

vsg

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. Judicial Magistrate, Gingee

2. The Inspector of Police
All Women Police Station
Gingee
Thiruvannamalai District.



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SUNDER MOHAN. J.

vsg

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