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Crl.O.P.No.7282 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

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

Crl.O.P.No. 7282 of 2021

and

Crl.M.P.No. 4857 of 2021

1. Mumthaj @ Mumthaj Begum

2. Ibrahim

... Petitioners/Accused 2 & 3

Vs

1. State Rep by its,
The Inspector of Police,
All Women Police Station,
Villupuram.

... Respondent/Complainant

2. Thahaseen.

... Respondent/De-facto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating in C.C.No.26 of 2020 on the file of the Additional Mahila Court (Magisterial Level) at Villupuram and quash the same.

For Petitioners : Mr.G.Mohammed Aseef

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

For R2 : No appearance



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ORDER

This petition has been filed to quash the proceedings in C.C.No.26 of 2020 on the file of the Additional Mahila Court (Magisterial Level) at Villupuram.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent. Though notice has been served on the second respondent, there is no representation for the second respondent either in person or through counsel. Perused the materials available on record.

3. The case of the prosecution is that the first accused got married to the second respondent on 14.03.2012. During the marriage, her parents presented household articles, 35 sovereigns of jewels and other articles. Even then, all the accused persons harassed the petitioner and demanded huge dowry and tortured her. They also harassed to have pregnancy immediately after their marriage. Even after she gave birth to a male child, they are not satisfied. The first accused got married to another person, viz., the fourth accused and hence, the complaint.

4. On receipt of the said complaint, the first respondent registered



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an FIR in Crime No.28 of 2018. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.26 of 2020 on the file of the Additional Mahila Court (Magisterial Level), Villupuram. There are totally four accused, in which the petitioners are arrayed as A2 & A3, viz., the mother-in-law and father-in-law of the second respondent. In fact, due to misunderstanding between the first accused and the second respondent, they got separated. That apart, the second respondent herself left the matrimonial home.

5. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that pending the quash petition, the case has been split up as against the petitioners and assigned new C.C.No.2 of 2021 on the file of the Additional Mahila Court (Magisterial Level), Villupuram.

6. A perusal of the statement recorded under Section 161 of Cr.P.C. reveals that all the allegations are bald and vague. There is no specific allegation made out as against the petitioners. As usual the second respondent mechanically alleged that all the accused threatened her and demanded more dowry. Further, it seems that the first accused pronounced Talak and as such, the first accused got married to the fourth accused. That apart, the petitioners



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were charged for the offences under Sections 498A, 494, 406, 506(i) of IPC read with Section 4 of Dowry Prohibition Act, 1961. However, there is no specific allegations to attract any of the offence.

7. 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**, which is 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.”

8. The above judgment is squarely applicable to the case on



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hand. Further, the petitioners are in-laws and they are 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 an allegation of active involvement in the matter, would not justify for 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 a domestic quarrel taking place in a matrimonial dispute specifically if it happens soon after the wedding. Therefore, the entire proceedings cannot be sustained as against the petitioners and it is nothing but clear abuse of process of law.

9. In view of the above discussion, the proceedings in C.C.No.26 of 2020 on the file of the Additional Mahila Court (Magisterial Level), Villupuram, is hereby quashed in respect of the petitioners alone. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

18.10.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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G.K.ILANTHIRAIYAN, J.



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To

1. The Judge,
Additional Mahila Court (Magisterial Level) at
Villupuram

2.The Inspector of Police,
All Women Police Station,
Villupuram.

3. The Public Prosecutor,
High Court, Madras.

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