



Crl.O.P.No.8397 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.8397 of 2021 and
Crl.M.P.Nos.5518 of 2021
and 15707 of 2022

1. M.Ambe
2. E.Murugan
3. M.Babyrani
4. M.B.Mendha

...Petitioners

Vs.

1. State represented by:
The Inspector of Police,
All Women Police Station Madipakkam,
13, Big Street,
Arulmurugan Nagar Extension,
Ranga nagar, Keelkattalai,
Chennai – 600 117.
(Crime No.2 of 2019)

2. C.Suleka
- ...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.39 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Alandur, Chennai and quash the same as against the petitioners.

1/11



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For Petitioners : Mr.Balan Haridas

For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

For 2nd Respondent : Mr.V.Jeyachandran

ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.39 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Alandur, Chennai.

2. The petitioners are the Accused A1 to A4. The first petitioner is the husband of the 2nd respondent/defacto complainant and the petitioners 2 to 4 are the parents and sister of the 1st petitioner respectively.

3. As per the case of the prosecution, the marriage between the 1st petitioner and the 2nd respondent was held on 09.02.2014 and at that time, both the 1st petitioner and the 2nd respondent were working in Infosys. After marriage, they continued to work in the same company and simultaneously they were preparing for UPSC examination. However, the 2nd respondent



had assured the 1st petitioner that she would help him for preparing the examination and it was at the cost of losing concentration to prepare herself for the UPSC examination. Subsequently, the first petitioner was selected for Indian Revenue Service (IRS) and joined duty. At that time, the 2nd respondent was three months pregnant. On 25.10.2014, she delivered a female baby. Thereafter, from December 2014 onwards, the 1st petitioner went to Delhi for training. During that time, the 2nd respondent could not establish any contact with him. After completion of training, the petitioners shaped the character of the 1st petitioner and that he started to avoid the 2nd respondent and her child. All of a sudden, the 1st petitioner filed a case for divorce in the year 2017 and sent notice. Thereafter, the case was transferred to the Family Court, Chennai and the same was dismissed. From the year 2018, the 1st petitioner and the 2nd respondent started to live together. However, as he agreed before the family Court that he would take the 2nd respondent and his child to his work place in the State of Odisha, he did not do so and he alone went there leaving the 2nd respondent and his child at Madipakkam with his parents; the petitioners 2 and 4 used to abuse the 2nd respondent badly and caused mental stress; the 2nd respondent was also not



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allowed to convey all the things to her parents also; hence, the 2nd respondent had given a complaint with these allegation and based on which, a case has been registered against the petitioners 1 to 4 in Crime No.2 of 2019 for the offences under Sections 498 (A) and 506 (i) of IPC.

4. The learned counsel for the petitioners submitted that while the petitioners 2 to 4 filed a petition in Crl.O.P.No.3632 of 2019 seeking Anticipatory bail, the 1st petitioner filed a petition for Anticipatory bail in Crl.O.P.No.3685 of 2019; during pendency, this Court referred the case to Mediation; in the course of Mediation, the 1st petitioner and the 2nd respondent settled all the issues and thereby the 2nd respondent agreed to receive a sum of Rs.27 lakhs towards the welfare of the minor child and that she would not claim any maintenance for herself.

5. The learned counsel for the petitioners further submitted that the petition has also been filed by the 2nd respondent for divorce by mutual consent in HMOP No.3701 of 2019 before the IV Additional Family Court, Chennai and divorce was also granted on 12.07.2020; the entire sum of Rs.27 lakhs was also paid to the 2nd respondent and in pursuant to that, a joint



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memo has also been filed before the Mediation Centre and in which the 2nd

respondent agreed to withdraw all the cases including the criminal complaint filed against the petitioners; after having received the settlement amount and agreed to withdraw the criminal complainant wantonly, she is contesting the present case filed for quashing C.C No.39 of 2021 on the ground of settlement; even when the FIR in Crime No.2 of 2019 was pending, the petitioner had filed Crl.O.P.No.5570 of 2020 to quash the FIR filed against them; when the case was listed on 06.07.2020, the hearing was conducted through video conferencing and the learned counsel for the petitioners could not connect effectively due to poor connectivity and hence Crl.O.P.No.5570 of 2020 was dismissed and that the Charge sheet was also filed; hence according to the petitioners, since the matter has already been settled between the 1st petitioner and the 2nd respondent, the criminal proceedings are liable to be quashed.

6. The learned Government Advocate (Crl. Side) appearing for the 1st respondent did not deny the facts about the Mediation and the joint Memo filed by the parties.



7. However, the learned counsel for the 2nd respondent submitted that after filing the charge sheet, the petitioners made their appearance and charges were framed against them; since the petitioners are subjected themselves to the jurisdiction of the trial Court, the matter cannot be quashed and the petitioners should be subjected to undergo trial. It is further submitted by the learned counsel for the 2nd respondent that the amount of Rs.27 lakhs was paid as maintenance only for the minor child and the 1st petitioner did not pay any maintenance to the 2nd respondent.

8. On perusal of the records, it is seen that the 1st petitioner and the petitioners 2 to 4 have filed two Criminal Original Petitions in Crl.O.P.Nos.3685 and 3632 of 2019 seeking Anticipatory Bail and during pendency of the same, this Court had passed the following order on 12.02.2019:

“2. The petitioner/husband in Crl.O.P.No.3685 of 2019 and the defacto complainant/wife along with the child are directed to be present before the Mediation Centre attached to the High Court, Chennai on 20.02.2019 at 3.30 p.m. The Mediation Centre shall utilize the services of a senior



Mediator in order to resolve the dispute since it involves the life of a young girl, aged about 4 years. The process of mediation shall be started immediately and shall be completed within a period of two months and the report shall be sent before this Court. In the mean time, the respondent Police is directed not to arrest the petitioners.”

9. By virtue of the above order, the parties were referred to Mediation and the matter was amicably settled between themselves. Pursuant to that they also entered into a joint compromise and filed a memo to that effect, on 09.08.2018, through which the 2nd respondent agreed to receive a sum of Rs.27 lakhs towards settlement. It was even acknowledged in the joint Memo that the 2nd respondent had received a sum of Rs.10 lakhs at the time when the petition for divorce for mutual consent was filed and remaining amount of Rs.17 lakhs was received at the time when the 2nd respondent appeared for hearing in the petition filed for divorce by mutual consent.

10. The petitioners appears to have filed a petition in Crl.O.P.No.5570 of 2020 seeking to quash FIR. But the said petition was dismissed by virtue of the order of this Court dated 06.07.2020. On perusal of the said order, it



is seen that there is no reference about the settlement through mediation and the dissolution of marriage between the 1st petitioner and the 2nd respondent through mutual consent. On 03.11.2020, the petitions filed by the petitioners seeking Anticipatory Bail in Crl.O.P.Nos.3632 and 3685 of 2019 were allowed on the submission made by the learned Additional Public Prosecutor that the matter being a matrimonial dispute it was referred to Mediation and it has been compromised between the parties.

11. However, the learned counsel for the 2nd respondent submitted that the petitioners should be allowed to undergo the process of trial. The said submission is entirely in conflict with the terms of agreement seen in the joint compromise Memo filed by the 1st petitioner and the 2nd respondent. The above steps would only show that the larger issue between the parties had been settled in terms of settlement only. Though the 2nd respondent agreed to withdraw all the cases including the criminal complaint and agreed to receive a sum of Rs.27 lakhs as settlement and filed a petition for getting divorce by mutual consent, she claims that the petitioners should be subjected to trial. Since the facts regarding Mediation and Settlement were



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not effectively brought to the notice of the Court at the time of hearing in

CrI.O.P.No.5570 of 2020, the said petition resulted in dismissal. Now the 2nd respondent has taken advantage of the same and claims that the petitioner should undergo trial. Since the matrimonial dispute have already been settled, the proceedings cannot be pending due to some second thought on the part of the 2nd respondent. The marriage between the 1st petitioner and the 2nd respondent is not in subsistence. In these circumstances, if the petitioners are compelled to undergo trial that would only waste the time of the Court and no useful purpose will be served. Having agreed to withdraw all the criminal proceedings, now the 2nd respondent is trying to keep the criminal proceedings pending by stating that she was not paid with any maintenance, the proceedings cannot be kept pending. If the criminal proceedings are not quashed that would only bring back the problem which had already been settled and that would defeat the entire exercise of Mediation and the understanding arrived in pursuant to the same. Hence, I feel it is appropriate to quash the criminal proceedings as against the petitioners.



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12. In the result, this Criminal Original Petition is allowed. The proceedings in C.C.No.39 of 2021 on the file of the learned Judicial Magistrate, Additional Mahila Court, Alandur is hereby quashed. Consequently, connected miscellaneous petitions are closed.

20.01.2023

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Index:yes/No

Speaking order / Non speaking order

To

1. The Inspector of Police,
All Women Police Station Madipakkam,
13, Big Street, Arulmurugan Nagar Extension,
Ranga nagar, Keelkattalai,
Chennai – 600 117.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

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