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CrI.O.P.No.17663 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.17663 of 2021 and
CrI.MP.No.9688 of 2021

C.Sivaperumal

... Petitioner

Vs.

1.The State,
rep. By the Inspector of Police,
Ponneri Women Police Station,
Ponneri,
Thiruvallur District
(crime No.1 of 2013)

2.Tharani

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to CC.No.100 of 2015 on the file of the learned Judicial Magistrate Court II, Ponneri and to quash the same.

For Petitioner : M/s.S.Lakshmi

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(CrI.side)

For R2 : No appearance

ORDER

This criminal original petition has been filed to quash the proceedings in CC.No.100 of 2015 on the file of the learned Judicial



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Magistrate Court II, Ponneri taken cognizance for the offences under Sections 498(A), 406, 506(i) of IPC r/w Section 4 of Tamilnadu Prohibition of Women Harassment Act, as against the petitioner and others.

2. Though notice was served on the second respondent, no one appeared on behalf of the second respondent before this Court either in person or through pleader.

3. The case of the prosecution is that the second respondent got married the first accused on 10.09.2004. Due to their wedlock, she gave birth to a male child. Even before marriage on 09.09.2004, the first accused and other family members demanded huge dowry of 100 sovereign jewels, 5 kg of silver, cash of Rs.2 lakhs. Only thereafter, marriage was solemnised and even after marriage, all the family members harassed her for further dowry. Immediately after marriage, they went to abroad in the year 2006 and returned to India. Once again there was negotiation and she was joined with the first accused. However, again there was misunderstanding and got separated. The first accused filed divorce petition in HMOP.No.128 of 2010 on the file of the II Additional Family Court, Chennai. After completion of investigation in the



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present complaint, the first respondent filed final report and the same has been taken cognizance in CC.No.100 of 2015 for the offences under Sections 498(A), 406, 506(i) of IPC and Section 4 of Tamilnadu Prohibition of Women Harassment Act. The petitioner is arrayed as A2, who is the father of the first accused.

4. On perusal of the entire documents, no specific allegations as against the petitioner. Omnibus allegations were made as against the petitioner. The first accused acted upon on the advice of the other accused persons. Except this allegation, no specific allegations made as against the petitioner. In fact, as per the allegations, even before marriage i.e. on 09.09.2004, there was huge demand of dowry. Even then, the second respondent got married the first accused. It is unbelievable since no prudent woman will get married even after huge demand of dowry, that too one day before marriage. Further, even according to the second respondent, the jewels were in her custody and thereafter, it was left in the matrimonial home. Further, in the year 2010, husband of the second respondent filed divorce petition in HMOP.No.128 of 2010 on the ground of cruelty, desertion and adultery. While pending the divorce petition, the second respondent also filed counter claim in IA.No.2157



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of 2012 claiming compensation and also to dismiss the divorce petition.

However, the divorce petition filed by the first accused was allowed and the first accused was directed to pay compensation of Rs.50 lakhs to the second respondent and Rs.1 crore in favour of the male child. Aggrieved by the same, the first accused filed appeal and it is pending before this Court. Insofar as the petitioner is concerned, he is the father and has nothing to do with the first accused since he is living separately. The first accused is living in abroad. Further the entire allegations are bald and vague and no ingredients to attract the offence under Sections 406 and 506(i) of IPC.

5. On perusal of the allegations made in the FIR, it becomes pertinent to mention that incorporation of [Section 498A](#) of IPC was aimed at preventing cruelty committed upon a woman by her husband and her in-laws, by facilitating rapid state intervention. However, it is equally true, that in recent times, matrimonial litigation in the country has also increased significantly and there is a greater disaffection and friction surrounding the institution of marriage, now, more than ever. This has resulted in an increased tendency to employ provisions such as [498A IPC](#) as instruments to settle personal scores against the husband and his relatives. Most of these



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complaints are filed in the heat of the moment over trivial issues without proper deliberations and it is also filed with oblique motive.

6. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India rendered in Crl.A.No.195 of 2022 in the case of ***Kahkashan Kausar @ Onam & others Vs. State of Bihar & others***, wherein it is held as follows:

18. this court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

7. On reading of the FIR also, this Court finds that there is no specific overt act as against the in-laws of the second respondent. Therefore, initiation



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of prosecution in the absence of specific allegations would result in abuse of process of law. Therefore, in the absence of the specific overt act as against the in-laws, if they are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. Therefore, the entire proceedings cannot be sustained as against all the accused persons and it is liable to be quashed.

8. Accordingly, the entire proceedings in CC.No.100 of 2015 on the file of the learned Judicial Magistrate Court II, Ponneri is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The learned Judicial Magistrate Court II,
Ponneri
- 2.Inspector of Police,
Ponneri Women Police Station,
Ponneri,
Thiruvallur District
- 3.The Public Prosecutor,
High Court of Madras

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