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CrI.O.P.No.19963 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM:

THE HON'BLE Mr. JUSTICE SUNDER MOHAN

CrI.O.P.No.19963 of 2021
and CrI.M.P.No.10857 of 2021

1.Rajesh

2.Kanchana

3.Lakshmi

...Petitioners/Accused

Versus

1.State Rep by

The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai – 42.

...1st Respondent/Complainant

2. Indumathi

...2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, seeking to call for the entire records relating to the case in C.C.No.310 of 2020 on the file of the Learned Judicial Magistrate – I, Tambaram and quash the same.



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Crl.O.P.No.19963 of 2021

For Petitioners : Mr.Mohammad Riyaz for
Mr.R.Sasikumar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
M/s.R.T.Shyamala for R2

ORDER

The petition is to quash the final report for the alleged offences under Sections 498 (A) of the Indian Penal Code and 4 of the Dowry Prohibition Act on the file of the learned Judicial Magistrate – I, Tambaram.

2. It is alleged in the final report that the first accused was working in Singapore and married the defacto complainant on 01.05.2006; that after marriage the defacto complainant, left for Singapore to live with him; that the first accused lived with the defacto complainant only for two months at Singapore and thereafter, sent her to his parents' house at Chennai; that the second and fourth accused had caused harassment to the defacto complainant by calling her “Kuridi” and she emanated bad smell; that thereafter, the first accused told the defacto complainant that he would live with her in Singapore only if she paid Rs.40,000/- (Rupees Forty Thousand only) towards monthly rent; that thereafter, the parents of the defacto complainant sent the defacto complainant to Singapore by spending



huge money to live with the first accused/ first petitioner; that after, she went to Singapore, the first accused caused cruelty, made lewd comments and compelled her to perform unnatural sex and; that the first accused had by making false averments obtained divorce in Singapore Court and thus, the accused committed the aforesaid offences.

3. Mr.Mohammed Riyaz, the learned counsel for the petitioners would submit that the allegations against the petitioners are false; that the matrimonial dispute is sought to be projected as a case of dowry demand and cruelty; that on account of the differences, the first accused applied for divorce before the Singapore Court; that the Singapore Court initially passed an interim order and thereafter, granted divorce; that the second respondent thereafter, lodged a complaint which resulted in the impugned final report by making false allegations and hence, prayed for quashing of the final report.

4. M/s.R.T.Shyamala, the learned counsel for the defacto complainant/second respondent, however would submit that there are allegations in the impugned final report, which has to be adjudicated only before the Trial Court; that the second respondent did not subject herself to



the jurisdiction of the Singapore Court and hence, the order obtained by the first accused is not binding on the second respondent; that there are allegations against the first accused and hence, those allegations have to be adjudicated only before the Trial Court. Thus, she prayed for the dismissal of the quash petition.

5. Mr.A.Damodaran, the learned Additional Public Prosecutor for the first respondent, also reiterated the submissions made by the defacto complainant/second respondent.

6. This Court on perusal of the impugned final report, finds that the allegations are only against the first accused about the alleged cruelty said to have been committed by him in Singapore and about the alleged demand of money made by him. The third petitioner namely Lakshmi/sister-in-law of the defacto complainant/second respondent has nothing to do with the marriage between the first accused and the defacto complainant and there are absolutely no allegations against her for any of the offences alleged. As against the second petitioner, who is the mother in law of the defacto complainant, except for a vague allegation that she had abused the defacto complainant, there is nothing to suggest that she had subjected the defacto



Crl.O.P.No.19963 of 2021

complainant to cruelty either in connection with dowry demand or cruelty which would drive a woman to commit suicide to attract the Section 494 (A) of IPC. Thereafter, this Court is inclined to quash the proceedings as against the second and third petitioners who are the third and fourth accused in the impugned final report.

7. However, in view of the allegations against the first petitioner, this Court is not inclined to entertain the quash petition of the first petitioner/first accused. The Trial Court may proceed with the trial against the first accused/first petitioner in accordance with law without being influenced by any of the observations made in this order. It is open for the first petitioner/first accused to raise all his contentions before the Trial Court.

8. Hence, the Criminal Original petition is partly allowed in respect of petitioners 2 and 3 alone. Consequently the connected Miscellaneous Petition is closed.

20.06.2023

Speaking Order/Non Speaking Order
Neutral Citation Case: Yes/No
dk



Crl.O.P.No.19963 of 2021

To

1.The Judicial Magistrate – I,
Tambaram

2.The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai – 42.

3.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



WEB COPY



Crl.O.P.No.19963 of 2021

SUNDER MOHAN, J.

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