



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.08.2023

Coram:

The Hon'ble Mr.Justice V.SIVAGNANAM

**Crl.O.P.No.17585 of 2021
and Crl.M.P.No.9658 of 2021**

- 1.Ramadoss
- 2.Premakumari
- 3.Shanmugapriya

...Petitioners

Versus

- 1.State rep. by
The Inspector of Police,
W-35, All Women Police Station,
Chennai District.
(Crime No.38 of 2019)

- 2.Vishali

...Respondents

This Criminal Original Petition is filed under Section 482 of Cr.P.C praying to call for the records pending trial in C.C.No.111 of 2021 on the file of the learned Judicial Magistrate No.1, Tambaram and quash the Charge Sheet preferred therein.

For Petitioners	:	Mr.C.Arivazhagan
For Respondent – 1	:	Mr.L.Baskaran
		Government Advocate (Crl.Side)
For Respondent – 2	:	Mr.K.Rahul



WEB COPY

ORDER

This criminal original petition has been filed by the petitioners seeking to quash the case in C.C.No.111 of 2021 on the file of the learned Judicial Magistrate No.I, Tambaram.

2. The brief facts of the case are as follows:

The 2nd respondent and one Dinesh (son of petitioners 1 & 2) are husband and wife. They got married on 19.01.2017 as per the Hindu rites and customs. The said Dinesh (husband of 2nd respondent) was working in USA. The petitioners 1 to 3 are father-in-law, mother-in-law and sister-in-law of 2nd respondent. At the time of 2nd respondent's marriage, the petitioners' family received 70 sovereigns of gold jewels, house hold articles worth around Rs.4 Lakhs and Rs.5 Lakhs cash as dowry from the family of 2nd respondent. After marriage, the 2nd respondent's in-laws demanded more dowry from the 2nd respondent and they also used to threaten her that they would send her out from their house since she did not bring enough dowry.



WEB COPY

That apart, 3rd petitioner (sister-in-law of 2nd respondent) used to torture the 2nd respondent by compelling her to do the entire house-hold works and also, she did not allow the 2nd respondent to lead a peaceful matrimonial life with her husband Dinesh. While so, the 2nd respondent's husband left his wife (2nd respondent) in his house and went to USA for continuing his job. Then, during the month of April 2017, the 2nd respondent's husband took his parents, sister, sister's children and his wife (2nd respondent) to USA. When they were in USA, the 2nd respondent's husband Dinesh told his wife (2nd respondent) that he married her only for money, but, she did not bring more dowry. After they returned to Chennai, the 2nd respondent's husband told the 2nd respondent to leave from their house since he would marry another rich girl. Further, the husband and sister-in-law of 2nd respondent threatened the 2nd respondent that if she refuses to leave their house, they would kill her. By threatening so, they sent out the 2nd respondent from their house. Aggrieved over the same, the 2nd respondent had lodged a complaint against her husband Dinesh and petitioners. On the basis of the complaint given by the 2nd respondent, the 1st respondent police had registered the FIR in Crime No.38 of 2019 against the 2nd respondent's husband and petitioners for the



offence under Sections 498(a), 406 & 506(i) of I.P.C. After the completion of investigation, the 1st respondent police had filed the final report before the learned Judicial Magistrate No.I, Tambaram which was taken on file in C.C.No.111 of 2021. Hence, the petitioners have filed the present petition before this Court.

3. The learned counsel for the petitioners submitted that Dinesh (son of petitioners 1 & 2) and 2nd respondent/de-facto complainant had got married on 19.01.2017 and due to some misunderstanding arose between them, the said Dinesh had filed a petition in H.M.O.P.No.1051 of 2019 before the II Additional Family Court, Chennai, seeking divorce. While the said H.M.O.P is pending, the 2nd respondent/de-facto complainant lodged a false complaint against the petitioners and her husband Dinesh. He further submitted that the petitioners are innocent persons and they have not committed any offence as alleged in the complaint given by the 2nd respondent/de-facto complainant. However, merely, on the basis of the complaint given by the 2nd respondent/de-facto complainant, the 1st respondent police registered the FIR against the 2nd respondent's husband



and petitioners and also, filed the final report before the learned Judicial Magistrate No.I, Tambaram. Therefore, the learned counsel prayed this Court to quash the case in C.C.No.111 of 2021 on the file of learned Judicial Magistrate No.I, Tambaram and also, prayed to dispense with the personal appearance of the petitioners before the trial Court.

4. The learned Government Advocate (Crl.Side) appearing for the 1st respondent police and the learned counsel appearing for the 2nd respondent/de-facto complainant submitted that the 1st respondent police had examined the 2nd respondent/de-facto complainant and 4 other persons as witnesses and recorded the statement given by them and the case in C.C.No.111 of 2021 is pending trial and hence, the criminal proceedings against the petitioners may not be quashed at this stage. They further submitted that the allegations made by the 2nd respondent/de-facto complainant in her complaint as well as statement have to be adjudicated by the trial Magistrate, only after the parties let in evidence before the trial Court. Therefore, they prayed for dismissal of this petition.



WEB COPY

5. Heard the learned counsel on either side and perused the materials placed before this Court.

6. From a perusal of the FIR and final report, it is seen that the petitioners 1 to 3 are father-in-law, mother-in-law and sister-in-law of 2nd respondent/de-facto complainant. The son of petitioners 1 & 2 and 2nd respondent are husband and wife. They got married on 19.01.2017. It is also seen that at the time of their marriage, the petitioners' family had received 70 sovereigns of gold jewels, house-hold articles worth around Rs.4 Lakhs and Rs.5 Lakhs cash as dowry from the 2nd respondent's family. Even after the marriage, the 2nd respondent's husband and petitioners have demanded more dowry from the 2nd respondent and also, they have threatened her that they would send her out from their house. Further, the 2nd respondent's husband told the 2nd respondent to leave their house since he would marry another rich girl. Ultimately, the 2nd respondent's husband and petitioners have sent out the 2nd respondent from their house, but, they did not return the dowry which they received from the family of 2nd respondent. Hence, the aggrieved 2nd respondent has lodged a complaint



against her husband as well as petitioners. Based on her complaint, the 1st respondent police has registered the FIR against the 2nd respondent's husband and petitioners. After the completion of investigation, the 1st respondent police has filed the final report before the Judicial Magistrate No.I, Tambaram and the said final report was taken on file in C.C.No.111 of 2021.

7. The 2nd respondent's husband Dinesh and the petitioners herein are A1 to A4 in C.C.No.111 of 2021 on the file of the learned Judicial Magistrate No.1, Tambaram. The prosecution has cited 5 witnesses including the 2nd respondent/de-facto complainant. During examination, L.W.1 (2nd respondent/de-facto complainant) deposed about the dowry demand made by her husband and in-laws and also, she deposed about the manner in which she was ill-treated and tortured by her husband and in-laws in her matrimonial house.

8. Though the 2nd respondent/de-facto complainant has made out a *prima facie* case to proceed against the petitioners (A2 to A4), the



petitioners have denied the allegations stated by the 2nd respondent/de-facto complainant in her complaint as well as statement.

9. Considering the above facts and circumstances of the case and also, having regard to the submissions made by the learned counsel on either side, this Court is of the opinion that the dispute between the petitioners and the 2nd respondent/de-facto complainant can be adjudicated, only after the parties let in evidence before the trial Court. The trial Magistrate is an appropriate authority to analyze the truthfulness of the statement of witnesses and decide whether the allegations made against the petitioners/accused are proved or not. Further, while exercising the powers under Section 482 of Cr.P.C, this Court cannot analyze the truthfulness of the statement of witnesses.

10. At this juncture, it is pertinent to point out that the Hon'ble Supreme Court has discussed in detail about the inherent powers of the High Courts under Section 482 Cr.P.C in the following cases:



WEB COPY

(i) ***R.P.Kapur Vs. The State of Punjab*** reported in ***AIR 1960 SC 866***

(ii) ***State of Haryana & Ors. Vs. Ch.Bhajan Lal & Ors.*** reported in
AIR 1992 SC 604

(iii) ***M/s.Neeharika Infrastructure Pvt. Limited Vs. State of Maharashtra & Ors.*** reported in ***2021 SCC Online SC 315***

10.1. In the case of ***R.P.Kapur Vs. The State of Punjab*** reported in
AIR 1960 SC 866, the Hon'ble Supreme Court has held as follows:

“6. It is well-established that the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, we may indicate some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or



WEB COPY



continuance of criminal proceedings against an accused person may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is



manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.”

10.2. Further, in the case of ***State of Haryana & Ors. Vs. Ch.Bhajan Lal & Ors.*** reported in ***AIR 1992 SC 604***, the Hon'ble Supreme Court issued seven guidelines to be followed by the High Courts in the exercise of its inherent power vested by Section 482 Cr.P.C to quash the FIR/complaint, which are as follows:

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers



WEB COPY



under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



WEB COPY

10.3. Similarly, in the case of *M/s.Neeharika Infrastructure Pvt.*

Limited Vs. State of Maharashtra & Ors. reported in *2021 SCC Online SC*

315, the Hon'ble Apex Court has observed as follows:

“80., our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or “no coercive steps to be adopted”, during the pendency of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the investigation or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;



WEB COPY



iv) *The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).*

v) *While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

viii) *Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;*

ix) *The functions of the judiciary and the police are complementary, not overlapping;*

x) *Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*

xi) *Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*

xii) *The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence*



WEB COPY



reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to



WEB COPY



permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or “no coercive steps to be adopted” and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or “no coercive steps” either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India.

xvii) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under



Article 226 of the *Constitution of India* referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

xviii) Whenever an interim order is passed by the High Court of “no coercive steps to be adopted” within the aforesaid parameters, the High Court must clarify what does it mean by “no coercive steps to be adopted” as the term “no coercive steps to be adopted” can be said to be too vague and/or broad which can be misunderstood and/or misapplied.”

11. It is to be noted that the present case does not meet the parameters laid down by the Hon'ble Supreme Court in the decisions cited *supra*. Further, I do not find any merit in the present case.

12. For the foregoing reasons, this criminal original petition is dismissed.

13. Considering the request made by the learned counsel for the petitioners to dispense with the personal appearance of the petitioners



before the trial Court, the personal appearance of the petitioners before the trial Court is dispensed with on condition that they shall appear before the trial Court, as and when required for further proceedings.

14. It is also made clear that the learned Judicial Magistrate No.I, Tambaram shall dispose of the case in C.C.No.111 of 2021, within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

16.08.2023

mrr

Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Judicial Magistrate No.I,
Tambaram.

2.The Inspector of Police,
W-35, All Women Police Station,
Chennai District.

3.The Public Prosecutor,
High Court, Madras.



WEB COPY



V.SIVAGNANAM, J.

mrr

Crl.O.P.No.17585 of 2021

16.08.2023