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Crl.O.P.No.17764 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.17764 of 2021 and
Crl.M.P.No.9746 of 2021

1. K.P.Premkumar
2. P.Dhanapakkiyam

...Petitioners

Vs.

State rep. by,

1. The Inspector of Police,
W-27, Vadapalani All Women Police Station,
Chennai – 600 026.

2. G.Deepa

... Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the Charge Sheet in C.C.No.788 of 2021 in Crime No.10 of 2019 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.M.V.Rajasekar for
M/s.Lawman Associates

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

For 2nd Respondent : No appearance



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ORDER

This Criminal Original Petition is filed to quash the Charge sheet in C.C.No.788 of 2021 in Crime No.10 of 2019 on the file of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

2. The petitioners who are the accused 1 and 2 are mother and son. As per the case of the prosecution, the marriage between the first petitioner and the 2nd respondent / defacto complainant was held on 30.07.2010. The petitioners and the 2nd respondent are close relatives. At the time of marriage, the 1st petitioner was working as a Project Manager in Indus Towers, Tamilnadu Sub Division, Ekkattuthangal. After marriage, the 1st petitioner was in the habit of consuming alcohol and tortured the 2nd respondent and also caused matrimonial cruelty by demanding dowry. Since the 2nd respondent refused to get money from her parent, the petitioners started to watch the moments of the 2nd respondent by fixing a camera inside their house. The first petitioner evaded to give money even for the basic expenses like medical expenses. He was abusing her in a demeaning manner by causing mental cruelty.

3. Heard the learned counsel for the petitioners and the learned



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Government Advocate (Crl. Side) appearing for the 1st respondent.

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4. The learned counsel for the petitioners submitted that there is no ingredients available on record to make out an offence under Section 498(A) of IPC against the petitioners. The first respondent Police had registered a case without conducting any preliminary enquiry and proceeded to file Charge sheet in a biased manner. The 2nd respondent is permanently residing in Salem which is 400 km from Chennai and that she never resided along with the petitioners. The allegations made in the complaint are very vague and it has been made without any basis. The 2nd respondent had given a false complaint only to harass the petitioners.

5. The learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that the 2nd respondent has given a detailed statement in her complaint as to how she was ill-treated by her husband and his mother. Hence, the Charge sheet should not be quashed.

6. On a bare reading of the complaint, it shows that the first petitioner



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had developed suspicion on the conduct of the 2nd respondent and abused her by connecting her to the driver employed under them; the first petitioner was in the habit of consuming alcohol and he harass her and give sexual tortures to her; the 1st petitioner had harassed her by getting money from her parents; the first petitioner had also threatened the 2nd respondent that he would eliminate her; further in some point of time, the first petitioner had taken the 2nd respondent and her child to Mizoaram and Assam where he was working. Even there, he did not treat the 2nd respondent in a respectful manner. Thereafter, he brought her back to her parents house and left there. The statement of P.W.1 would show that she has stated about the occurrence of matrimonial cruelty with lot of details. The parents of the 2nd respondent have also given statement, supporting the case of the prosecution. But a careful reading of the statement made by the witnesses shows that the predominant allegations were made against the first petitioner.

7. It is also seen from the statement of the witnesses that the first petitioner and the 2nd respondent were in love with each other before marriage and she had married him by opposing her parents and with the



cooperation of the first petitioner's parents. Nowhere the 2nd respondent has stated that she was living with the first petitioner as joint family along with the parents of the first petitioner. The predominant reason for matrimonial dispute is the suspicious character of the first petitioner about the conduct of the 2nd respondent. Since the 2nd respondent had married the first petitioner by opposing her parents, that was taken advantage by the first petitioner. It is seen from the records that at some point of time, the first petitioner had taken the 2nd respondent and the child to some other states where he was working and after some time, he sent them back to her parents house. However, the 2nd respondent did not like to stay with the parents of the first petitioner and she opted to live separately. So the acts of incidence of the 2nd petitioner with the 2nd respondent is very minimal and her statement does not reveal any specific event with dates or how she was ill-treated by the 2nd petitioner who is her mother-in-law. Further the averments made against the 2nd petitioner will not fall under ill treatment or dowry demand for which the case has been registered against her. Since the materials on record, on face of it, does not disclose any cognizable offence, more particularly a case under Section 498 (A) of I.P.C., as against the 2nd petitioner, I feel it is



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appropriate to quash the Charge sheet against the 2nd petitioner alone.

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8. In the result, this Criminal Original Petition is partly allowed. The Charge sheet in C.C.No.788 of 2021 is quashed only against the 2nd petitioner. However, the proceedings shall go on as against the first petitioner. Consequently, connected miscellaneous petition is closed.

22.02.2023

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Index:yes/No

Speaking order / Non speaking order

To

1. The Inspector of Police,
W-27, Vadapalani All Women Police Station,
Chennai – 600 026.
2. The Public Prosecutor,
Madras High Court,
Chennai.

R.N.MANJULA,J.

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