



Crl.O.P.No.17664 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.17664 of 2021

and

Crl.M.P.Nos.9691 and 9692 of 2021

Ganesh

...Petitioner/Accused-5

Vs.

1.State Rep. By

The Inspector of Police
All Women Police Station,
Vadapalani,
Chennai.
Cr.No.03/2021

2.Priyadarsini

... Respondents



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PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.2924 of 2021 on the file of the learned 17th Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.Dr.S.S.Swaminathan for
Mr.M.Shahjahan

For R1 : Mr.S.Balaji
Government Advocate (Crl.Side)

For R2 : Mr.Ganesh Rajan

ORDER

The petition is to quash the final report for the offences under Sections 498 (A), 506 (1) of Indian Penal Code, 1860.

2. It is alleged in the final report that first accused and the defacto complainant got married on 11.09.2019; that the defacto complainant asked the first accused as to why he had falsely represented that a property belonged to him and induced her to marry him, when the property actually belonged to his grandmother; that all the accused including the petitioner abused the defacto complainant and demanded



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Rs.10,00,000/- (Rupees Ten Lakhs only) by way of cash and 25 Sovereigns of Gold Jewels; and that they had also abused the defacto complainant in filthy language for not acceding to the demand made by them.

3. Mr.Dr.S.S.Swaminathan, the learned counsel for the petitioner submitted that the petitioner who is arrayed as fifth accused (sister's husband of first accused) has nothing to do with the marriage between the first accused and the defacto complainant; that he and his wife were living separately in a place called Urappakam whereas the matrimonial house is situated in Chennai; and that the allegation is vague and the petitioner/fifth accused is sought to be implicated only to arm-twist the first accused and to wreak vengeance on him. Hence, he prayed for quashing the proceedings against him.

4. Learned Additional Public Prosecutor appearing for the first respondent and the learned counsel for the second respondent/defacto complainant however would submit that there are allegations in the impugned final report which would attract the offences alleged. The learned counsel would further submit that on account of dowry



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demand, the petitioner/A5 along with his wife had attacked the defacto complainant; that since there are allegations, the matter has to be adjudicated only during trial. Hence, they prayed for dismissal of the quash petition.

5. This Court finds that there were matrimonial disputes between the first accused and the second respondent. The petitioner is the sister's husband of the first accused. Admittedly, he was not living in the matrimonial house. There are totally six accused found in impugned final report. Apart from the vague allegation that the petitioner also attacked the defacto complainant, there is no specific allegation as to when and in what manner the alleged attack took place. The Hon'ble Apex Court and this Court have repeatedly held that when relatives of the husband are sought to be implicated for the offence under Section 498 (A) of IPC, there must be specific allegation with details especially when the relatives are living in far off places. In the instant case, the petitioner has been implicated only due to the matrimonial disputes between the first accused and the second respondent. The impugned proceedings against the petitioner are clearly an abuse of process of law and malafide.



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6. For the aforesaid reasons, this Court is of the view that the impugned Proceedings as against the Petitioner/fifth accused alone is liable to be quashed. Hence, the Criminal Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

07.06.2023

dk

Index : Yes/No

Internet: Yes/No

Speaking/Non Speaking Order

NCC: Yes/No

To

1.The 17th Metropolitan Magistrate
Saidapet
Chennai.

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



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SUNDER MOHAN. J,
dk

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