



*Crl.O.P.No.19959 of 2021
and Crl.MP.Nos.10853 & 10854 of 2021*

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM:

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.19959 of 2021
and
Crl.MP.Nos.10853 & 10854 of 2021

1. K.Rajendran
2. Krishnaveni
3. Savithri

... Petitioners

-Vs-

1. The Inspector of Police,
W17-All Women Police Station,
Peravallur.

2. G.A.Leelavathy

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records relating in charge sheet in C.C.No.123of 2018 pending on the file of the Additional Mahila Court, Egmore, Chennai and quash the same in so far as the petitioners concerned.

For Petitioners : Mr.M.G.Ramachandiran

For Respondents : Mr.A.Gopinath
Govt. Advocate (Crl.Side) for R1
Mr.P.Venugopal for R2



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ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C.No.123 of 2018 pending on the file of the Additional Mahila Court, Egmore, Chennai.

2. The first petitioner is the husband of the 2nd respondent/*defacto* complainant, the 2nd petitioner is the mother of the first petitioner and the 3rd petitioner/ is the sister of the first petitioner. The petitioners are the accused 1 to 3, against whom the 2nd respondent has given a complaint by alleging that they have caused marital cruelty on her.

3. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl. Side) appearing for the first respondent and the learned counsel for the second respondent. Perused the entire materials available on record.

4. The learned counsel for the petitioners submitted that the 2nd respondent's father is a retired Assistant Commissioner and the police officer, who has registered the case was worked as a subordinate officer under the father of the 2nd respondent. The 2nd respondent has given a complaint only at the instigation of her father and the main problem between



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the couples is due to the 2nd respondent's demand to constitute a separate family by leaving aside the petitioners 2 & 3 herein, who are the mother and the sister of the first petitioner. The petitioners never committed any act of cruelty as alleged by the 2nd respondent and all her statements are only exaggeration. Even though there was conciliation, in which, both the 2nd respondent and the first petitioner/A1 had agreed to depart peacefully and signed a Memorandum of Understanding and consequent to that, the 2nd respondent had received back all her jewels, the 2nd respondent intends to continue the criminal proceedings. In the Additional typed set filed by the petitioners, the copy of the signed settlement agreement has been annexed.

5. Having accepted to amicably settle the issues, the 2nd respondent now wants to take vengeance by continuing the proceedings. There is no *prima facie* materials available as against the petitioners to make out a case for the offences under Sections 498(A)m 323, 406, 294(b) and 506(ii) IPC and the whole of the criminal proceedings are motivated one and under the influence of the 2nd respondent's father. Hence, the proceedings against the petitioners are liable to be quashed.



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6. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the materials would show that the 2nd respondent has given a statement, wherein she has made specific allegations as against each of the petitioners. In view of the domestic violence caused by the petitioners, the 2nd respondent has also given a domestic violence complaint and the same is also pending in D.V.C.No.82 of 2018 on the file of the Additional Mahila Court, Chennai. Since there are sufficient materials to make out the offence against each of the accused, charge sheet has been laid and the same has been rightly taken on file.

7. The learned counsel for the 2nd respondent submitted that the allegation that the 2nd respondent has given the complaint at the instigation of her father, who is a retired police officer is not true. Only if the petitioners are subjected to trial, the real fact can come to light.

8. It is yet another matrimonial case, wherein the 2nd respondent has alleged that the petitioners 1 to 3 had subjected her marital cruelty in various manner. It is alleged that the 2nd and 3rd petitioners were instrumental in causing strained relationship between the 2nd respondent and the 1st petitioner. The petitioners did not treat the 2nd respondent in a respectful



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manner and the language used by them is abusive and that had caused emotional stress on the 2nd respondent.

9. The learned counsel for the petitioners submitted that the 2nd respondent and the 1st petitioner had settled the major issues between themselves and in fact, the 2nd respondent has received back her jewels in the presence of both side family members. But, it is strange to see that the 1st petitioner had agreed to withdraw the present Criminal Original Petition and co-operate to adjudicate the case after conducting a trial. Irrespective of understanding arrived between the parties, it is seen that the petitioners had now chosen to continue the Criminal Original Petition, which has been filed to quash the proceedings. That would only show that the issues between the couples are not yet settled. The Court has got no other option except to go with the materials that is available on record in order to constitute the offences, for which the petitioners 1 to 3 have been charged with.

10. On perusal of the charge sheet, it is seen that the 2nd respondent has given a statement and she is listed as LW-1. In her statement, she has stated that the 1st petitioner never had the independency to decide even the trivial matters or get the facilities at the marital home. Even for silly matters, the 1st



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petitioner was in the habit of consulting his mother, who is the second petitioner herein and the second petitioner was found pleasure in separating the couples by aggravating minor issues in the family. The 1st petitioner had stopped by giving any financial support to the 2nd respondent. By believing the 1st petitioner's assurance, the 2nd respondent had even resigned her job and remained in home. The 2nd and 3rd petitioners had abused her in demeaning words and caused mental torture by not even providing her basic amenities like water. They have started to assault her and treated her in such a degrading manner. The father of the 2nd respondent, who is said to be the retired police officer has also given a statement that his daughter was tortured and ill-treated at the hands of the petitioners 1 to 3 at her matrimonial home. It is stated by the learned counsel for the petitioner that the complaint has been given by the 2nd respondent only at the instigation of her father, who is a retired police officer. But, these facts cannot be taken to be correct on its face value, without subjecting the parties to undergo trial, especially when there are material available to make out the charges against the petitioners 1 to 3.



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11. Though the 1st petitioner and the 2nd respondent had settled the issues surrounding the criminal case and domestic violence case and they had agreed to get divorce by mutual consent and signed a settlement agreement to that effect, it is needless to point out that in a matrimonial case, there cannot be any settlement unless the parties have come forward and settle the larger issues between themselves. However, it is left to the appreciation of the learned Judge of the Family Court or the Judges of the Trial Court. As such the materials available on record make out a criminal case against the petitioners and hence, I find no ground to quash the proceedings against the petitioners.

12. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are also closed.

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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation Case: Yes/No
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R.N.MANJULA, J

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To

1. The Inspector of Police,
W17-All Women Police Station,
Peravallur.
2. The Public Prosecutor,
High Court of Madras
Chennai-600 104.

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