



Crl.O.P.No.23218 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.23218 of 2019 and
Crl.M.P.No.12181 of 2019

1. Saraswathi
2. Nirmala
3. P.Parameswaran
4. Lathamani

... Petitioners

(as per the order of this Court
dated 28.08.2019, this Crl.O.P.
is dismissed insofar as the
4th petitioner is concerned)

Vs.

1. State rep. by
the Inspector of Police,
AWPS, Tiruchengode,
Namakkal District.
(Crime No.07 of 2019)

2. Sarathi

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.7 of 2019 AWPS Tiruchengode, Namakkal District and quash all proceedings in respect of the petitioners only in Crime No.7 of 2019 on the file of the Inspector of Police, AWPS Tiruchengode, Namakkal District.



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For Petitioners : Ms.Sumithra Vasudevan

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

For 2nd Respondent : Mr.M.R.Thangavel for
Mr.P.Muthukumarasamy

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.7 of 2019 on the file of the Inspector of Police, AWPS Tiruchengode, Namakkal District in respect of the petitioners.

2. The petitioners 1 to 3 have been ranked as A3, A4 and A5. A1 is the husband of the 2nd respondent / defacto complainant and A2 is the second wife of A1. A3 and A4 are mother and sister of A1 respectively. A5 is the husband of A4.

3. The 2nd respondent / defacto complainant has given a complaint by alleging that she was married to A1 on 10.04.2005 as per Hindu customary rights. From the date of marriage, she was subjected to matrimonial cruelty by A1 and his family members. Even though she was patient enough to live in her husband's place, when she got conceived, she was ill-treated by her



in-laws and thereafter she was driven out from her matrimonial house.

Thereafter, she delivered a female baby on 13.12.2007 and that was informed to A1 and A3. But they did not come and see the child. At that stage she came to know that A1 got married to A2 even when the first marriage of A1 with the 2nd respondent was in existence. On 04.08.2019, at about 10 a.m., when the defacto complainant went to Kemmandadu, Okkilipatty at Tiruchengode Taluk, Namakkal along with her parents and sisters, A1 came there and threatened that she should not tell to anyone that he married A2 and abused her in filthy language.

4. Heard the learned counsel for the petitioners, learned Government Advocate (Crl. Side) appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

5. The learned counsel for the petitioners submitted that the allegations have been made primarily against the petitioners and they have no overt act on the alleged offence. Even though the case has been registered for the offences under Section 498 A of IPC also, all the



allegations with regard to the ill-treatment have been made only in connection with the alleged incidents that were taken place when the 2nd respondent was pregnant. Since there is no material available against the petitioners to make out a case, the FIR should be quashed as against the petitioners.

6. The learned Government Advocate (Crl. Side) submitted that there are specific averments made against the petitioners also that they also subjected the 2nd respondent / defacto complainant to cruelty when she was pregnant and carrying a child. She was not allowed to live peacefully in her matrimonial home and they had driven her back to her parents house since she did not deliver a male baby. Only if a detailed investigation is allowed to be continued, the involvement of these petitioners can come to light and hence the petition should be dismissed.

7. On perusal of the records, it is seen that the 2nd respondent has alleged about the second marriage of A1 with A2, when her marriage with A1 was subsisting. The 2nd respondent / defacto complainant is the first wife



of A1 and their marriage was not legally dissolved. Even though the 2nd respondent has alleged that the mother of A1 , sister (A4) and her husband (A5) have joined together and ill-treated her when she was pregnant, the said incident occurred in the year 2007. Now the daughter of the 2nd respondent is said to have be studying in 7th standard. The 2nd respondent seems to have got support from A1 right from the delivery of her child. Her grievance against the 1st petitioner / A3 is that she also did not come to her parents house to see her daughter. All the allegations that have been made against the petitioners herein in respect of the matrimonial cruelty pertains to the year 2007 and the complaint has been given in the year 2019, after a lapse of nearly 12 years.

8. No doubt, the marriage of A1 with A2, can amount to mental cruelty to the 2nd respondent who is the first wife of A1. The allegations are to the effect that A1 and A2 had married between themselves when the first marriage with the 2nd respondent is in subsistence and A1 had abused 2nd respondent with filthy language and threatened her, I feel the records would only make out a case as against A1 and A2 and not against the other



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accused A3, A4 and A5 who are the petitioners herein. In such circumstances, I feel it is appropriate to invoke the powers of this Court under Section 482 of Cr.P.C., to quash the proceedings as against the petitioners 1 to 3 alone. However, Investigation is directed to be continued against A1 and A2 (4th petitioner) and to complete the same within a period of three months from the date of receipt of a copy of this order and file the final report.

9. With the above observation and direction, this Criminal Original Petition is partly allowed. The FIR in Crime No.07 fo 2019 is quashed only as against the petitioners 1 to 3 (A3, A4 and A5). Consequently, connected miscellaneous petition is closed.

19.01.2023

vum

Index:yes/No

Speaking order / Non speaking order

To

6/8



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1. The Inspector of Police,
AWPS, Tiruchengode,
Namakkal District.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

vum

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