



Crl.O.P.No.8763 of 2017

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.8763 of 2017

and

Crl.M.P.Nos.6267 & 6268 of 2017

S.Rajasekar

... Petitioner

Vs

1. State Rep. by  
The Inspector of Police,  
All Women Police Station,  
Erode-638 001.

2. K.Dharani

... Respondents

**PRAYER:** Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the entire records pertaining to C.C.No.293 of 2015 on the file of the Judicial Magistrate No.III, Erode and quash the same.

For Petitioner : No appearance

For Respondent 1 : Mr.L.Baskaran  
Government Advocate (Crl.Side)

For Respondents 2 : No appearance



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**ORDER**

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.293 of 2015 on the file of the learned Judicial Magistrate No.III, Erode thereby taken cognizance for the offences under Sections 366,468,471,294(b),496,506(i) & 109 of IPC r/w.468 & 471 of IPC and r/w.4 of TamilNadu Prohibition of Harassment of Women Act, 1998, as against the petitioner.

2. The case of the prosecution is that the victim/2nd respondent was studying B.E., Computer Science 1st year in Hindustan College, Coimbatore and staying at the ladies Hostel. On 12.06.2014, the accused 1 to 4 went to her hostel and stated that her father met with an accident and admitted in the hospital and as such they dragged the victim/2nd respondent and taken her to the house of 2nd accused. There, they were compelled her to marry the 1<sup>st</sup> accused. The Marriage was solemnized between the 1st accused and the 2nd respondent at Parai Vinayagar Kovil. Thereafter, they were going to Registrar Office, Karungalpalayam with the assistance of 5<sup>th</sup> and 6<sup>th</sup> accused and their marriage was registered. Hence the complaint.



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3. On receipt of the said complaint, the 1<sup>st</sup> respondent registered FIR in Cr.No.14 of 2014 for the offences under sections 366,468,471,506(i) of IPC and under section.4 of TamilNadu Prevention of Women Harassment Act. After completion of investigation the respondent police filed a final report for the offences under sections 366,468,471,294(b),496,506(i) & 109 of IPC r/w.468 & 471 of IPC and r/w.4 of TamilNadu Prohibition of Harassment of Women Act, 1998. There are totally six accused in the said case and this petitioner is arrayed as 6<sup>th</sup> accused.

4. The learned counsel appearing on behalf of the petitioner died, as such, this court ordered notice to the petitioner. Even after receipt of the notice, the petitioner failed to engage counsel and failed to appear before this court in person or through pleader.

5. Mr.L.Baskaran, learned Government Advocate (Criminal Side) appearing for the first respondent and perused the records.



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6. On perusal of the records revealed that the petitioner is arrayed as 6<sup>th</sup> accused. The victim/2nd Respondent, while she was studying B.E., Computer Science in Hindustan College, Coimbatore, she stayed in the ladies hostel. On 12.06.2014, the 2<sup>nd</sup> accused who was already known to her along with Accused No.1,3 and 4 went to her hostel and informed that her father met with accident and due to which he was admitted in the hospital. Thereafter, she was abducted in the car and kidnapped her and taken into house of the 2<sup>nd</sup> accused. The 3<sup>rd</sup> accused forcefully changed her dress with silk saree and dragged her to Vinayagar Temple situated at Sanarmedu. There, the first accused tied Thali and marriage was solemnized. Then, she was taken to Registrar Office, Karungalpalayam for registering their marriage. The 5<sup>th</sup> and 6<sup>th</sup> accused signed as witnesses in the document while registration of marriage. This petitioner also colluded with the other accused and committed very serious offence as against the victim/2nd respondent.

7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the



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case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, wherein it is held as follows:-

*" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.*

*13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.*

8. The Hon'ble Supreme Court of India dealing in respect of the very same issue in **Crl.A.No.1572 of 2019** dated 17.10.2019 in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, held as follows:

*"19. After perusing the impugned order and on*



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*hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.*

*20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”*

9. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** passed in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

*"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power*



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*under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.*

.....

*13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."*

10. Therefore, there are ingredients to attract the offences as charged by the prosecution. As such, there is absolutely no ground to quash the proceedings in C.C.No.293 of 2015, since, there are specific



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allegation as against the petitioner.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.293 of 2015 in Crime No.14 of 2014 on the file of the learned Judicial Magistrate No.III, Erode. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

12. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

16.11.2023

Internet: Yes  
Index: Yes/No  
Speaking/Non-speaking order  
gvn

To

- 1) The Judicial Magistrate No.III,  
Erode
- 2) The Inspector of Police,  
All Women Police Station,  
Erode-638 001.



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3) The Public Prosecutor,  
High Court Madras.

**G.K.ILANTHIRAIYAN, J.**

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