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Crl.O.P.No.26900 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.26900 of 2019

and

Crl.M.P.Nos.14392 and 14393 of 2019

Vinoth Kumar

... Petitioner

Versus

1. The State Represented by
The Inspector of Police,
W-35, All Women Police Station,
Tambaram,
Chennai.

2. Abirami

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C.No.151 of 2017 in Crime No.42 of 2016 on the file of the learned Judicial Magistrate, Tambaram and quash the same.

For Petitioner	: Mr.A.Arumugam
For Respondents	:
For R1	: Mr.A.Damodaran
	Additional Public Prosecutor
For R2	: No appearance



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ORDER

This Criminal Original Petition has been filed to quash the final report in C.C.No.151 of 2017 on the file of the learned Judicial Magistrate, Tambaram.

2. It is alleged in the impugned final report that the petitioner got married to the second respondent on 01.09.2011. At the time of marriage, the second respondent's father had gifted 65 sovereigns of jewels and house hold articles worth Rs.3,00,000/- to the petitioner; that the petitioner was running a hotel along with his friend; that the petitioner, who was in need of money for running the said hotel asked for money from his in-laws and hence, the second respondent's father pledged jewels and handed over a sum of Rs.7,00,000/- to the petitioner; and that thereafter, the petitioner demanded another sum of Rs.1,00,000/- and the second respondent's brother gave the said sum of Rs.1,00,000/- to the petitioner. Further, it is alleged that the petitioner had often insulted the second respondent saying that she was very fat and not lean as his sister was and hence committed the offences under Sections 498(A), 406 of IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002.



3. The learned counsel for the petitioner submitted that even assuming that the allegations are true, the offences under Sections 498(A) and 406 of IPC are not made out. The allegations do not suggest that the petitioner had committed cruelty on the second respondent on account of dowry demand. He further submitted that the alleged payments of money to the petitioner is said to have been taken place in the year 2011 whereas, the impugned complaint was given only in the year 2016 and there is no allegation that the petitioner had misappropriated the second respondent's property so as to attract Section 406 of IPC. He further submitted that this Court had quashed the proceedings against the other accused in Crl.O.P.No.4118 of 2018 dated 09.08.2021.

4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that the allegations constitute the alleged offences under Sections 498(A), 406 of IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. Hence, all the points raised by the petitioner can only be agitated during trial and hence, prayed for dismissal of the quash petition.



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5. Though notice was sent to the second respondent and her name is printed in the cause list, none has entered appearance on her behalf.

6. This Court on perusal of the impugned final report finds that the only allegation against the petitioner is that he had requested the second respondent's father for some help in running a hotel business and the second respondent's father had given a sum of Rs.7,00,000/- for the said purpose. Thereafter, since the petitioner suffered loss in the hotel business, he demanded further money and the second respondent's brother had given a sum of Rs.1,00,000/- to the petitioner. Apart from these two instances, where the second respondent states about the help rendered to the petitioner, there is no allegation to show that there was a dowry demand and cruelty to the second respondent on account of that dowry demand. The only other allegation is that the petitioner had body-shamed the second respondent stating that she was very fat. The said allegation may amount to cruelty but not cruelty of the nature defined under Section 498(A) of IPC.



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7. As regards the offence under Section 406 of IPC, this Court finds that there is nothing in the impugned final report to show that any property was entrusted to the petitioner and that the property was misappropriated. The other allegations are very vague and bereft of necessary particulars. The prosecution cannot be sustained on the basis of the said vague allegations. Further, it is seen that this Court had quashed the proceedings against the other accused in Crl.O.P.No.4118 of 2018 by the order dated 09.08.2021. Since, the allegations in the impugned final report do not attract the offences alleged, the same is liable to be quashed even as against the petitioner herein. Hence, the impugned final report is quashed and the Criminal Original Petition is allowed. The connected Criminal Miscellaneous Petitions are also closed.

03.04.2023

Index : Yes/No

Neutral Citation : Yes/No

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SUNDER MOHAN, J.

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To

1. The Judicial Magistrate Court,
Tambaram.
2. The Inspector of Police,
W-35, All Women Police Station,
Tambaram,
Chennai.
3. The Public Prosecutor
High Court of Madras
Chennai – 600 104.

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