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Crl.O.P.No.27020 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.06.2023

Pronounced on : 07.07.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.27020 of 2022
and
Crl.M.P.Nos. 16586 & 16587 of 2022

1. Dhanapalan
2.Vasantha
3.Bruntha

... 1st Petitioner / 2nd Accused
... 2nd Petitioner / 3rd Accused
... 3rd Petitioner / 4th Accused

Vs.

1.Inspector of Police
All Women Police Station,
Manargudi,
Manargudi Taluk,
Thiruvarur District.

... 1st Respondent / Complainant

2.Sarunya Devi

... 2nd Respondent / Defacto
Complainant

PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.194 of 2022 pending on the file of the learned Judicial Magistrate Court No.1, Manargudi.



Crl.O.P.No.2702 of 2022

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For Petitioners : Mr.T.Gowthaman,
Senior Counsel
For Ms.Rohini Ravikumar

For Respondent-1 : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

For Respondent-2 : Mr.V.Jayakumar

ORDER

Seeking to quash the proceedings in C.C.No.194 of 2022 pending on the file of the learned Judicial Magistrate No.1, Manargudi, the petitioners are before this Court with this Criminal Original Petition.

2. The facts leading to file the present petition are that:

(i) The gist of the case is that on 25.10.2013, the 2nd respondent / defacto complainant married one Loganathan, who is arrayed as A1 in this case, at Marina Mahal, Thiruvavarur. At the time of the marriage, the parents of the defacto complainant gifted 22 Sovereigns of gold jewels to her, 5 Sovereigns to her husband/A1, Maruthi K-10 Car worth about Rs.4.75 Lakhs, along with the utensils, household articles worth about rupees two lakhs. After the marriage, the 1st accused/husband and the petitioners herein, who are in-laws of the defacto complainant, harassed her by demanding additional dowry of Rs.5,00,000/- and luxury car. At the instigation of A4, A1 had abused and beaten the defacto complainant by demanding more dowry. In the meanwhile, the



defacto complainant delivered a female child; her husband/A1 left her in her parental home nearly nine months never bothered to visit and enquire about the second respondent and the new born child and later, on the advice of elders of both sides, she was taken to matrimonial home. The 2nd and 3rd petitioners herein made comments that the defacto complainant and A1 are dusky skin, but the child is a fair skin, something else in the birth of the child. Since the in-laws are continuously giving torture by demanding dowry, the defacto complainant lodged a complaint before the Inspector of Police, All Women Police Station, Thiruvarur, the same was taken on file in C.S.R.No.209/2018, after the complaint, A1 endorsed that hereinafter he will never demand dowry. After that, the Company, where A1 working, sent him to the Poland Country, for training. A1 took her along with the child to Poland and continued to harass, gave mental stress to her, at the instance of her in-laws.

(ii) After that, in the school function in Poland Country, where the defacto complainant's daughter was studying, A1 attacked the defacto complainant, she sustained injuries on the forehead and shoulder, immediately, Ambulance was called, for medical help. In this regard, on the complaint of the 2nd respondent, Poland Police arrested her husband, freezed his passport. Later, A1 took steps for compromise through his company officials. Believing their words, she withdrew the complaint and on that basis, the proceedings of the Poland Police, as against her husband/A1 dropped. In the meantime, since the Visa was to



expire, they returned to India. Later, she was forced to stay in her parental home without any means to lead the life with her daughter. Therefore, the defacto complainant lodged the complaint before the 1st respondent, on 12.08.2021 and the same was registered in Crime No.11 of 2021 under Sections 498(A) and 506(i) of IPC. r/w. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2005. On completion of investigation, charge sheet filed against four persons in C.c.NO.194 of 2022 for offences under Sections 498(A) and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harrassment of Women Act. The petitioners are A2 to A4.

3. Mr.T.Gowthaman, the learned Senior Counsel appearing for the petitioners would submit that this is the case of matrimonial dispute between the wife and husband. Based on the complaint of the defacto complainant, the case in Crime No.11 of 2021 registered mechanically without application of mind by the 1st respondent. The 1st respondent failed to note the entire complaint and statement of the witnesses, registered the case under Section 4 of the Tamil Nadu Prohibition of Harrassment of Women Act. The essential ingredients of the provision of Women Harassment like "Any Educational Institution, temple or other place of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or any other place" never mentioned in the final report filed by the 1st respondent and therefore, the final report itself is liable to be quashed.



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4. It is further submitted that the alleged allegation made in the complaint took place long back and it would clearly establish that the petitioners intentionally roped in the proceedings. The 1st respondent failed to note that the allegation of alleged harassment was by A1 in the country of Poland. Based on the complaint, investigation was conducted by the Poland Judiciary of District Prosecutor Office, KP II Katowice, came to the conclusion of discontinuing the investigation against A1, due to the lack of grounds for incitement. Once the proceedings were completed by the foreign agency, again the 2nd respondent filed the present complaint suppressing the real facts, but without applying the mind, the 1st respondent filed the final report before the jurisdictional Court, which is liable to be quashed. It is general in nature that in matrimonial dispute, the in-laws are being implicated as accused and as usual, the petitioners, who are in-laws, implicated in this case, and it is clear abuse of the process of law.

5. It is also contended that the entire jewels, which were given as 'Sreedhana', at the time of marriage, were kept by the 2nd respondent herself and the gifted car handed over to the defacto complainant by A1, at the time of the anticipatory bail of the petitioners. The first accused paying the monthly maintenance of Rs.15,000/- both to the child and the defacto complainant each and every month to the 2nd respondent's account. Further, the charges framed as against the petitioners are under Sections 498(A) and 506(i) of IPC., and Section



4 of the Tamil Nadu Prohibition of Harrassment of Women Act. None of the incriminating materials in the final report against the petitioners. The petitioners are only in-laws and absolutely, there is no material that the petitioners had criminally intimidated the second respondent/defacto complainant. In order to make out a case for the offence under Section 506(i) of IPC, the threat should have been a real one and the defacto complainant also should have stated that on such intimidation, she feared threat to her life. Adding further, the learned Senior Counsel would submit that quashing the criminal proceedings is called for in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. Further, the allegations set out in the complaint do not constitute the offence for which cognizance to be taken by the Magistrate and it is open to the High Court to quash the same. Hence, the learned Senior Counsel prays for quashment relying upon the following judgements.

(i) **Preeti Gupta and another vs. State of Jharkhand and another** reported in **2010 (7) SCC 667**

(ii) **Geeta Mehrotra and others vs. State of U.P. and others** reported in **AIR 2013 SC 181**

(iii) **Kahkashan Kausar alias Sonam and others vs. State of Bihar and others** reported in **2022 (6) SCC 599**

(iv) **Rakesh and two others vs. The State, Rep. by the Sub-Inspector of Police, All Women Police Station, Namakkal, and another** [Crl.O.P.No.7450 of 2021, dated 20.07.2022]



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6. Mr.A.Gokulakrishnan, the learned Additional Government Pleader appearing for the 1st respondent would submit that the 1st petitioner/A2 herein is the father-in-law of the defacto complainant; the 2nd petitioner/ A3 is the mother-in-law and the 3rd petitioner/A4 is the sister-in-law. Based on the complaint of the 2nd respondent / defacto complainant, a case has been registered against the petitioners, in Crime No.11 of 2021, for the offences under Sections 498(A) and 506(i) of IPC., r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2005. After thorough investigation, a charge sheet has been filed in C.C.No.194 of 2022, on the file of the Judicial Magistrate Court No.1, Manargudi, Thiruvarur District, arraying the petitioners and estranged husband of the 2nd respondent as A1 to A4 in the charge sheet. Eight witnesses listed and materials submitted. He further submitted that LW1 is the victim, LW2 and LW3 are parents of LW1, who all confirm and corroborate the harassment and cruelty suffered by the defacto complainant. LW4 and LW5 are the witnesses to the Observation Mahazar and Rough Sketch. LW6 and LW7 are neighbours of the defacto complainant. LW8 is the Investigating Officer. At this stage, the question of quashing the proceedings does not arise. Hence, prayed for dismissal of the petition.

7. Mr.V. Jayakumar, the learned counsel appearing for the 2nd respondent, while reiterating the submission made by the learned Additional Public



Prosecutor, would submit that on a reading of the complaint and consideration of the allegations therein, the ingredients of the offence are disclosed. Further, submitted that there are triable issues in this case and placed reliance on the Apex Court's judgment in **Taramani Parakh vs. State of M.P. and others** reported in **2015 AIR SCW 1817** and **Mallika and another vs. The Inspector of Police, All Women Police Station South, Kumbakonam, Thanjavur District [Crl.O.P.(MD)No.8167 of 2022, dated 29.04.2022]**. Therefore, there is no justification for this Court to interfere with the proceedings, at this stage. Hence, the learned counsel prays for dismissal of the petition.

8. I have heard the learned counsels appearing on either side and perused the materials available on record.

9. In this case, the petitioners are father-in-law, mother-in-law and sister-in-law (A2, A3 and A4). The marriage between 2nd respondent/defacto complainant and Loganathan took place on 25.10.2013, during marriage, Sridhana articles, including jewels presented. The complaint is that after marriage, there has been further demand of dowry by her husband at the instigation of the petitioners. Hence, the petitioners abetted Loganathan, the estranged husband of the defacto complainant. The other allegation is that the petitioners used abusive language. The admitted position is that the second respondent/defacto complainant and Loganathan/A1 residing in Chennai independently as single family. The second



respondent's/defacto complainant's jewels were forcibly taken and pledged for constructing a house by the petitioners 1 and 2. Now, the jewels have been handed back to the second respondent, which is not in dispute, the car gifted also handed back. After delivery of baby for nine months, the petitioners and Loganathan not visited defacto complainant and enquired about the new born child. Later, the issue got resolved. The second respondent earlier lodged a complaint on 28.07.2018, C.S.R.No.209 of 2018 assigned by All Women Police Station, Thiruvavarur. Later, the issues reconciled and the complaint closed on 06.08.2018. The second respondent/defacto complainant and Loganathan/A1 proceeded to Poland on 09.06.2019 in connection with Loganathan's [A1] employment. Thereafter, in Poland, there have been issues between them. Loganathan/A1 assaulted the second respondent. Police complaint lodged, passport blocked, restrictions imposed against Loganathan/A1. The complaint lodged in Poland on 20.09.2019, thereafter, it was withdrawn on 06.11.2019. Later, both Loganathan/A1 and the second respondent/defacto complainant reached Chennai during January 2020. They again proceeded to Poland on 29.01.2020, returned back to Chennai on 01.07.2020. During this period, the petitioners/A2 to A4 were in India, not visited Poland. Hence, for the entire episode in Poland, the petitioners have nothing to do with it. On coming back to Chennai on 01.07.2020, Loganathan/A1 had sent the second respondent to be with her parents and thereafter, not taken back to the matrimonial home for more than a year. Therefore, the above complaint and case.



10. In the charge sheet, except for a general and omnibus allegation, there is no specific allegation against the petitioners more so after return from Poland.

11. Thus, the earlier incidents prior to 09.06.2019, the day when the defacto complainant left to Poland with Loganathan/A1, all condoned. Thereafter only, both Loganathan/A1 and the second respondent/defacto complainant joined together and residing in Poland. During the period of stay in Poland and after return from Poland on 01.07.2020, these petitioners have no role. There is no specific and distinct allegation against them, except for general allegations. The case is an outcome of matrimonial dispute. The Apex Court finding tendency of implicating immediate relations of estranged husband not uncommon, advised to take pragmatic realities into consideration.

12. The return of jewels and car not seriously disputed, recorded in Crl.O.P.No.25050 of 2021. Further, interim maintenance is being paid by Loganathan/A1. From the above order, it is seen that interim maintenance of Rs.15,000/- to be paid until the issues were resolved at the Mediation Centre. It is seen now the Mediation failed. In view of the same, the petitioners to ensure that Loganathan/A1 to pay Rs.20,000/- as per the earlier order of the Trial Court, unless the said order is modified or cancelled.



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13. On careful perusal of the Charge sheet, the allegations made taken at their face value and accepted in its entirety, do not, *prima facie*, constitute any offence or make out a case against the petitioners, who are in-laws. Further, the complaint is manifestly attended with *mala fide* and the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the petitioners, who are in-laws of the second respondent/defacto complainant. Hence, this Court is inclined to quash the proceedings.

14. In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.194 of 2022, pending on the file of the learned Judicial Magistrate No.1, Manargudi, is quashed as against the petitioners/A2, A3 and A4 alone. Consequently, the connected miscellaneous petitions are closed.

07.07.2023

Index : Yes/No
Internet : Yes / No
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To

1.The Judicial Magistrate No.I,
Manargudi.

2.The Public Prosecutor,
High Court, Madras.

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M.NIRMAL KUMAR, J.

VV2/MPK

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