



*Crl.O.P.No.32336 of 2019
and Crl.MP.No.17803 of 2019*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2023

CORAM:

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

Crl.O.P.No.32336 of 2019

and

Crl.MP.No.17803 of 2019

1. K.Selvi
2. G.Uma @ Poongodi

...Petitioners

-Vs-

1. State Rep. by
Sub Inspector of Police,
All Women Police Station,
Tiruvannamalai.
Crime No.15 of 2019
2. G.Banu

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records and quash the further proceedings of the First Information Record in Crime No.15 of 2019 on the file of the first respondent.

For Petitioners : Mr.M.Krishnamoorthy

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side) for R1
Mr.K.A.Ravindran for R2



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ORDER

This Criminal Original Petition has been filed to call for the records in Crime No.15 of 2019 on the file of the first respondent Police and quash the same.

2. The petitioners are the accused 2 and 3. The 2nd respondent, who is the *defacto* complainant, was married to the 1st accused as his second wife. The 1st petitioner is the mother of the 1st accused and the 2nd petitioner is the first wife of the 1st accused. The *defacto* complainant has given a complaint by alleging that she had been ill-treated by the accused 1 to 3. On the said complaint, a case has been registered for the offences under Sections 498(A), 294(b), 323 & 506(i) IPC and Section 4 of Prohibition of Harassment of Women Act, 2002.

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 allegations in the complaint are predominantly made against the 1st accused and as



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against the petitioners, there are certain vague allegations and generalized statements. The 2nd petitioner had given consent to marry the 2nd respondent/*defacto* complainant for the 1st accused as she could not deliver a child for him. In fact, it is the 2nd respondent, who did not behave in a proper manner with the petitioners and in this regard, the 1st accused had also sent a legal notice on 24.04.2019. Since the ingredients in the FIR does not disclose any cognizable offence as against these petitioners, the FIR should be quashed against them.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that at the threshold stage itself, it cannot be presumed that the allegations made against these petitioners cannot be substantiated. Even in the complaint, the 2nd respondent had made specific allegations against the petitioners and hence, the investigation should be allowed to continue.

6. The learned counsel for the 2nd respondent submitted that the 1st accused married the 2nd respondent, since he did not have any child through his 1st wife, who is the 2nd petitioner herein. After having married the 2nd respondent, all the accused had started to ill-treat her in various manner and



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she has been driven out of the house. The 2nd respondent had delivered a male baby and she is living along with her baby at her mother's house. Since the allegations are serious and she has stated that the petitioners had assaulted her and due to which, she sustained injuries, there are enough ingredients to make out cognizable offence against the petitioners as well.

7. The 1st accused appears to have married the 2nd respondent even when his first marriage with the 2nd petitioner is in subsistence. It is submitted that the 2nd petitioner had given her consent for marrying the 2nd respondent, since she did not have any child. After marrying the 2nd respondent, the 1st accused had chosen to live as a joint family with his mother and his first wife also. The family dimension chosen by the 1st accused itself has got enough scope to create emotional anxiety in the mind of the 2nd respondent. The 2nd respondent has alleged that she was ill-treated by the mother and the first wife of her husband and they used to abuse her in filthy language and also assaulted her with kitchen utensils and in which she sustained injuries. The further allegation is that they would also instigate the 1st accused to ill-treat her. Finally, the 2nd respondent could not live at the house of the 1st accused and she was driven out of the matrimonial home. In



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this regard, the 2nd respondent has given a complaint earlier to the All Women Police Station, Tiruvannamalai and during enquiry, the 1st accused is said to have accepted to establish a separate family along with the 2nd respondent. But, he did not visit her after she delivered a baby and now she is living alone with her baby in her mother's house.

8. Though the learned counsel for the petitioners submitted that the predominant allegations made by the 2nd respondent is only against the 1st accused, the 2nd respondent has got grievance in the way she was treated by the petitioners 1 & 2 also. In fact, she made specific allegation that she was assaulted with kitchen utensils by the petitioners and she was also threatened by them that they would not give her any food if she revealed the same to the 1st accused. Such kind of treatment at any stretch of investigation cannot be considered as a symptom of a cordial relationship and that it did not have element of cruelty. Since the matter is at a threshold stage, it cannot be presumed now that even if the investigation is allowed to continue, no material can be available to substantiate the allegations made by the 2nd respondent against the petitioners also. The interest of justice would be served only if a detailed investigation is done and the witnesses concerned are



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enquired properly. In order to enable the same, I feel that the investigation should be allowed to continue. Since the petition is a premature one and there are sufficient allegations made against the petitioners also, I do not find that this is a fit for which powers under Section 482 Cr.P.C should be exercised to quash the same.

9. In the result, this Criminal Original Petition is dismissed.
Consequently, connected Miscellaneous petition is closed.

14.02.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation Case: Yes/No
kmi

To

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



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R.N.MANJULA, J

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