



Crl.O.P.No.35030 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.35030 of 2019

and

Crl.M.P.No.19320 of 2019

1.Jayammal
2.Suresh
3.Santhosh
4.Rangaraj
5.Padma

...Petitioners

Vs.

1.The State of Tamil Nadu,
Through the Inspector of Police,
All Women's Police Station (AWPS),
Thudiyalur, Coimbatore.

2.Shanthi Nagarjan

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., calling for the records relating to the proceedings in C.C.No.2 of 2017 on the file of the Additional Mahila Court, Coimbatore and quash the in so far as the petitioners are concerned.



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For Petitioners : Mr.K.S.Karthik raja

For Respondents : Mr.A.Damodaran

Additional Public Prosecutor for R1

Mr.B.Thirumalai for R2

ORDER

This petition is filed to quash the final report filed for the offences under Section 498(A) and 506(i) of IPC on the file of the Additional Mahila Court, Coimbatore.

2.It is alleged in the final report that the de-facto complainant married the first accused one Prakash on 01.06.2012 at Perur; that they lived in India for 15 days; that thereafter, they started living in USA; that the 1st accused had behaved in a highly indecent manner and compelled the de-facto complainant to indulge in unnatural sex and recording it in a camera; that he had threatened her by saying, if he discloses these facts, he would kill her.

3.The petitioners are arrayed as A2 to A6 in the final report. The 1st



petitioner is the mother, the petitioners 2 and 3 are the brothers, the 4th petitioner is the brother-in-law and the 5th petitioner is the sister of the first accused. It is alleged that they had instigated 1st accused / husband of the de-facto complainant to the commit offences under Section 498(A) of IPC.

4.The learned counsel appearing for the petitioners would submit that admittedly the de-facto complainant was living in India for only 15 days and thereafter they lived in USA. Due to matrimonial differences they had obtained divorce in the Circuit Court of the State of Oregon, County of Washington on 30.10.2017. He further submitted that the matrimonial dispute is sought to be given a criminal colour and the petitioners have nothing to do with the matrimonial disputes.

5.The learned Additional Public Prosecutor would submit that there are allegations in the impugned final report and the issues have to be decided only during trial and prayed for dismissal of the quash petition.

6.The learned counsel appearing for the de-facto complainant



reiterated the submissions of the learned Additional Public Prosecutor and submitted that there are allegations to show that the petitioners had instigated the 1st accused to commit the offences alleged against him.

7.This Court on a reading of the impugned final report finds that the 1st accused and the 2nd respondent married on 01.06.2012. They were living in India for about 15 days. Thereafter, they left for USA. It appears that they were matrimonial differences when they lived in USA and they had obtained a decree of divorce on 30.10.2017 in the Circuit Court of the State of Oregon, County of Washington. The Court in USA has observed that the irreconcilable differences between the parties have led to the irremediable breakdown of the marriage. The relevant portion is extracted hereunder:-

"7.Irreconcilable differences between the parties have led to the irremediable breakdown of the marriage."

The above order could show that there were difference between the de-facto complainant and her husband. There is absolutely no allegation as against the petitioners, except for the bald allegation that when the parents of the de-facto complainant approached them, they had abused them.



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8.This Court had time and again held that implicating the relatives of the husband in matrimonial cases cannot be made in a routine manner unless the allegations are specific and serious in nature. In the final report, there are no such allegations and the matrimonial differences between the husband and wife is sought to be projected as case of cruelty against the petitioners. Hence, the impugned final report is an abuse of process of law and liable to be quashed as against the petitioners.

9.In view of the above, the final report in CC.No.2 of 2017 is quashed as against the petitioners. However, the learned Magistrate may dispose of the trial against the first accused as expeditiously as possible. This Criminal Original Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2023

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Internet : Yes/No
Index: Yes/No
Speaking / Non-speaking order
Neutral Citation :Yes/No



WEB COPY

To:-

1. The Inspector of Police,
All Women's Police Station (AWPS),
Thudiyalur, Coimbatore.
2. The Additional Mahila Court,
Coimbatore.
3. The Public Prosecutor
High Court of Madras,
Madras.



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SUNDER MOHAN, J.

KKN

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