



CRL.OP.(MD)No.1086 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.11.2022

DELIVERED ON : 11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.(MD)Nos. 13586 of 2020 & 1086 of 2021
and
CRL.MP.(MD).Nos.6230/2020 & 502 & 523/2021

1. Rajee

2. Vasagar

: Petitioners/Accused 2 & 3 in
CRL.OP.(MD)No.13586 of 2020

1. V.Vivek

2. V.Vinoth

: Petitioners/Accused 1 & 4 in
CRL.OP.(MD)No.1086 of 2021

Vs.

1. The State Rep. By
The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.

(Crime No.7/2020)

: 1st Respondent/Complainant
in both Crl.O.Ps

2. V.Vishnupriya

: 2nd Respondent/
Defacto Complainant
in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482



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of Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No.7 of 2020 dated 14.10.2020 on the file of the first Respondent Police and to quash the same.

For Petitioners
in both cases : Mr.B.Saravanan
For Respondents
in both cases : Mr.B.Nambiselvan
Additional Public Prosecutor for R1
: Mr.K.P.S.Palanivel Rajan for R2

COMMON ORDER

These Criminal Original Petitions have been filed to quash the case in Crime No.7 of 2020, dated 14.10.2020 on the file of the first Respondent Police.

2. Mr.B.Saravanan, learned Counsel for the Petitioners submitted his arguments. As per his submission, Crl.O.P.(MD).No.1086/2021 is filed by A-1 and A-4 who are brothers and Crl.O.P.(MD).No.13586/2020 is filed by the Mother and Father of the Petitioners in Crl.O.P.(MD).No.1086/2021. It is the contention of the learned Counsel for the Petitioners that A-1 in this case is the husband of the second Respondent in this Crl.O.P. After marriage, the first Accused/first Petitioner in Crl.O.P.(MD).No.1086/2021 had left USA to pursue his Ph.D., the second Respondent also joined him subsequently they lived as husband and wife at U.S. Subsequently, the



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second Respondent had become pregnant. Therefore, for delivery, she was sent back to India. She delivered a female child on 06.10.2015. Delivery of the female child was informed to the Petitioner and his family. On hearing the birth of a female child, in-laws refused to come and see the child. It is alleged that the elder brother of the first Petitioner/second Petitioner in Crl.O.P.(MD).No.1086/2021 instigated the Petitioner to cause torture on the second Respondent/wife. Therefore, he caused torture on the second Respondent. After delivery of child viz., 2½ years, the second Respondent was waiting for the first Petitioner to take him back. Since the first Petitioner in Crl.O.P.(MD).No.1086/2021 did not take her back to USA, she preferred a Complaint as though the husband and in-laws demanded more dowry and inflicted torture on her. The second Petitioner is alleged to have instigated the first Petitioner to indulge in such activities and get divorce from the second Respondent. So that, the first Petitioner can be married to a girl from an affluent family. It is the contention of the learned Counsel for the Petitioners that the false case had been instigated against the Petitioners.

3. As per the reported ruling of the Hon'ble Supreme Court in ***Lalitha Kumari's case***, matters concerning matrimonial dispute, the Investigation



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Officer shall hold preliminary enquiry only after, the Investigation Officer is satisfied, he/she can file a case against the in-laws and husband of the complainant woman. Otherwise, it will result in causing damage to the matrimonial life. To protect the matrimonial relationship, the Investigation Officer shall register a case only after conducting preliminary enquiry and if there are sufficient materials to file a case. Here, the Police had registered the case immediately the first Petitioner in Crl.O.P.(MD).No.1086/2021 had filed HMOP.No.74 of 2020 before the learned Sub Judge, Uthamapalayam, Theni District seeking restitution of conjugal rights. Based on the complaint given by the second Respondent, All Women Police Station, Uthamapalayam had registered the case in Cr.No.7/2020. Subsequently, in the Mediation, the second Respondent had received her jewels and gave an undertaking to the Inspector of Police that she is not prosecuting the Complaint. She will sort out the dispute with her husband only on his return from USA, before the Civil Court, Uthamapalayam. It is the case of the Petitioners that the dispute arose due to misunderstanding. A false case had been registered by the Wife as though she was harassed by her in-laws in USA for which All Women Police Station, Uthamapalayam had registered a case.

4. It is the contention of the learned Counsel for the Petitioners that



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without holding preliminary enquiry, the All Women Police had registered a case against the Petitioners, only to cause harassment. Therefore, he seeks to quash the FIR in Cr.No.7/2020 on the file of the first Respondent.

5. It is nothing but violation of the guidelines issued in ***Lalitha Kumari's case***. The facts squarely applies to the reported ruling of the Hon'ble Supreme Court in ***AIR 1992 SC 604*** in the case of ***State of Haryana Vs. Ch. Bhajan Lal*** wherein guidelines had been issued by the Hon'ble Supreme Court to be followed by the High Court while exercising extraordinary powers under Section 482 Cr.P.C., in quashing the FIR, final report or criminal complaint. Therefore, the learned Counsel for the Petitioners seeks to quash the FIR pending on the file of the first Respondent Police.

6. The learned Additional Public Prosecutor vehemently objected the line of the argument of the learned Counsel for the Petitioners stating that the offences were committed in India. On subsequent return of the second Respondent, the family of the first Petitioner tortured the second Respondent both mentally and physically. Based on which only, the FIR had been registered. The case could not be proceeded as there was a Stay



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from this Court. The Stay continued. On vacating the Stay, the first Respondent is ready to file a charge-sheet.

7. The second Respondent vehemently objected the line of the argument of the learned Counsel for the Petitioners stating that the Investigation Officer had considered the ruling of the Hon'ble Supreme Court in ***Lalitha Kumari's case*** and held preliminary enquiry. After conducting preliminary enquiry only as there were sufficient materials against the Petitioners and his parents, the Investigation Officer had proceeded with the investigation.

8. It is the contention of the learned Counsel for the second Respondent/defacto Complainant that the guidelines in the ruling of the Hon'ble Supreme Court in ***Lalitha Kumari's case*** was followed in this case.

9. In support of his contention, the learned Counsel for the second Respondent/defacto Complainant had relied on the ruling reported in ***2022 Live law (SC) 594*** in the case of ***State of Uttar Pradesh & Anr. Vs. Akhil Sharda & Ors.*** The relevant portion reads as follows:

*Code of Criminal Procedure 1973 – Section 482 –
Quashing of FIR – No mini trial can be conducted by the High
Court in exercise of powers under Section 482 Cr.P.C.,*



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jurisdiction and at the stage of deciding the application under Section 482 Cr.P.C., the High Court cannot get into appreciation of evidence of the particular case being considered.

10. Point for Consideration:

Whether the case in Crime No.7 of 2020 dated 14.10.2020 on the file of the first Respondent Police is to be quashed?

11. On consideration of the rival submissions, it is found that both the parties had filed HMOP and the same are pending before the Sub Court as matrimonial dispute. The second Respondent herself had received back the jewels and had given an undertaking that she does not intend to proceed with the Complaint. Therefore, the FIR in Cr.No.7/2020 on the file of the first Respondent Police is to be quashed in the light of the reported ruling of the Hon'ble Supreme Court in ***Lalitha Kumari's case*** regarding matrimonial dispute.

12. Point For Consideration is answered in favour of the Petitioners and against the Respondents.



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WEB COPY In the result, this ***Criminal Original Petitions are allowed.*** The FIR in Cr.No.7/2020 on the file of the first Respondent is quashed. Consequently, connected Miscellaneous Petitions are closed.

11.08.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order

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To

1. The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.
2. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

dh

Order made in

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