



Crl.O.P.(MD).No.2442 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.2442 of 2020

and

Crl.M.P(MD).Nos.1254 and 1255 of 2020

1.Dharmar

2.Rajammal

... Petitioners

Vs.

1.The State rep by
The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.

2.Vijila Rani

...Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.314 of 2019, on the file of the learned Judicial Magistrate No.I, Padmanabhapuram and quash the same.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.P.Kottaichamy
Government Advocate(Crl.Side) for R1

: Mr.R.J.Karthick for R2



Crl.O.P.(MD).No.2442 of 2020

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.314 of 2019 pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram.

2.The petitioners are accused Nos.1 and 2 in C.C.No.314 of 2019 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram and facing trial for the alleged offences under Sections 498(A), 406, 341, 323, 294(b), 506(ii) of IPC and Section 3(1) and 4 of Dowry Prohibition Act, 1961.

3. The first petitioner is the husband of the defacto complainant. The second petitioner is the mother-in-law of the defacto complainant. The marriage between the first petitioner and the defacto complainant was solemnized on 21.08.2006. At the time of marriage, the defacto complainant was given a dowry, namely, 30 sovereign gold jewels and other house hold articles. In the said wedlock, a female child was born to them. Ever since the date of marriage, the first petitioner used to harass the defacto complainant demanding dowry. While being so, on 24.10.2018, the first petitioner came from abroad and harassed the defacto complainant by demanding dowry of Rs.10,00,000/-. Further, the first



Crl.O.P.(MD).No.2442 of 2020

petitioner had illegal relationship with the third accused, he used to bring the third accused to the matrimonial home. The accused person threatened the defacto complainant and appropriated the jewels. Further, on 12.11.2018 at about 07.00 p.m., the accused persons abused and assaulted the defacto complainant and threatened her that they would do away with her life. Therefore, on the basis of the complaint the first respondent police registered the case in Crime No.44 of 2018, for the offences punishable under Sections 498(A), 406, 341, 323, 294(b), 506(ii) of IPC and Section 3(1) and 4 of Dowry Prohibition Act, 1961. After the investigation, the investigating officer filed a final report before the learned Judicial Magistrate No.1, Padmanabhapuram, and the same was taken on file in C.C.No.314 of 2019.

4. Pending the same, the petitioners have filed the present quash petition stating that the first petitioner, husband of the defacto complainant made a complaint against her with an allegation that she forged his signature and had taken the money from his account and the same was registered in Crime No.148 of 2018 and after the investigation, final report was filed in C.C.No.388 of 2019 and as a counter blast, the second respondent made the false complaint, alleging the offence of causing cruelty and demand of dowry. Therefore, he seeks



Crl.O.P.(MD).No.2442 of 2020

quashment of the proceedings in C.C.314 of 2019, on the ground of *malafide*.

WEB COPY

5.The defacto complainant has appeared through her counsel and he submitted that material averments and incriminating materials are available against the petitioners to constitute the above stated offences. The case of the malafide is not a ground to quash the proceedings when sufficient materials are available to prosecute the petitioner. Hence, he seeks to dismiss this petition.

6.The learned Government Advocate (Crl.Side) has also reiterated the same.

7.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

8.There is a specific averment in the statement of the witnesses L.W.1 and other witnesses relating to the demand of dowry and the assault made on 12.11.2018 and in the said circumstances, whether it is made with malafide intention or the same is a counter blast to the first petitioner's allegation made as against the defacto complainant in C.C.No.388 of 2019 is a matter for trial and



Crl.O.P.(MD).No.2442 of 2020

the same is a disputed question of fact and this Court has no jurisdiction to enter into the same. The Hon'ble Supreme Court repeatedly has held that the inherent power under Section 482 of Cr.P.C., cannot be exercised in a casual and routine manner. Further, while exercising the said power, Court has no jurisdiction to appreciate the evidence. Therefore, this Court is not inclined to entertain this petition.

9. Accordingly, this Criminal Original Petition stands dismissed.
Consequently, connected miscellaneous petitions are closed.

24.11.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbn



Crl.O.P.(MD).No.2442 of 2020

WEB COPY

- To
- 1.The Judicial Magistrate No.I
Padmanabhapuram.
 - 2.The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P.(MD).No.2442 of 2020

K.K.RAMAKRISHNAN, J.

sbn

Crl.O.P(MD).No.2442 of 2020
and
Crl.M.P(MD).Nos.1254 and 1255 of 2020

24.11.2023