



Crl.O.P(MD).No.4771 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved On : 19.04.2023

Delivered On : 02.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.4771 of 2020

and

Crl.M.P.(MD)Nos.2720 and 2723 of 2020

1.M.Harihara Sabari Rajan
2.K.Mahanandam
3.M.Bakiyalakshmi
4.R.Sathiya @ Sathiya Sai Geetha
5.S.Muthu Malani @ Malini
6.M.Rajaram @ P.K.M.Raja

...Petitioners

Vs

1.The State rep. By
The Inspector of Police,
All Women Police Station,
Samayanallur,
Madurai District.
Crime No.86 of 2014

2.Parvathakumari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the C.C.No.57 of 2018 pending on the file of the Judicial Magistrate Court, Vadipatti, Madurai District and quash the same as illegal regard to the petitioners.

For Petitioners
For 1st Respondent

: Mr.B.Moothikannan
: Mrs.M.Aasha
Government Advocate (Crl. Side)

For 2nd Respondent

: Mr.B.Arun



CrI.O.P(MD).No.4771 of 2020

ORDER

WEB COPY

This petition is filed to quash the chargesheet in C.C.No.57 of 2018 on the file of the learned Judicial Magistrate, Vadipatti, Madurai District.

2.The case against the petitioners is that on 28.01.2007, the first petitioner and defacto complainant belonged to different community and that their marriage was love marriage. After marriage, both of them lived at the parental house of the defacto complainant. The defacto complainant filed a complaint before the first respondent on 08.02.2007 in C.S.R.No.37 of 2007 and the same was closed. A female child was born to them on 23.03.2008. On 02.12.2014, the defacto complainant lodged another complaint against the petitioners in Crime No.86 of 2014, which was taken on file as C.C.No.57 of 2018 on the file of the Judicial Magistrate, Vadipatti.

3.On the side of the petitioners, it is stated that the alleged occurrence is said to have taken place on 29.11.2014 but the FIR was lodged only on 02.12.2014 and there is a delay. Seventh accused is a third party and not a relative and that Section 498A is not applicable to the seventh accused. The first petitioner and the defacto complainant were living separately from the year 2007. The second petitioner is aged about 71 years and he is having



Crl.O.P(MD).No.4771 of 2020

various ailments and he is under medical care. The third petitioner is aged about 62 years and she is also undergoing treatment for various ailments. Only to harass and humiliate the family members, the defacto complainant has filed a false complaint and prayed the case to be quashed.

4.On the side of the petitioners, it is further stated that the petitioners 4 and 5 are the sisters of the first petitioner. The sixth petitioner is the husband of the fourth petitioner. The second petitioner is a heart patient. The fourth petitioner is a Government servant. The defacto complainant and the first petitioner were not living with the petitioners 2 to 6. No physical assault was mentioned in 161 statements recorded by the police.

5.The learned counsel for the petitioners would rely on the judgment of the Hon'ble Supreme Court in the case of ***Seenivasan v. The State and another*** reported in ***2020 SAR (Cri) 48***, wherein it is stated as follows:

“Quashing of proceedings – allegations of dowry demand and harassment – appellant residing in a different address at no point of time he had been in a joint family wherein the defacto complainant lived during the period the alleged demand of dowry is said to have been made- proceedings liable to be quashed.



Crl.O.P(MD).No.4771 of 2020

As the appellant was not even residing in the address of the complainant and his family members who are A1 to A4 and in absence of specific allegations and overt acts, if the proceedings are allowed to go on against the appellant, it amounts to abuse of process – criminal proceedings qua the appellant liable to be quashed.”

6.On the side of the second respondent, it is stated that the petitioners assaulted the defacto complainant and they caused mental cruelty. All the petitioners are residents of the same addresses. They are having a common intention. They attempted for conducting the second marriage of the first petitioner.

7.On the side of the prosecution, it is stated that A1 had illegal intimacy with A7. A2 abused the defacto complainant and they threatened her with dire consequences. In the FIR, it is specifically stated that A1 to A6 have committed assault and they abused the defacto complainant. The neighbours were examined as L.W.5 and L.W.6. They have deposed that there was a family dispute. There is specific overt act against the petitioners. The allegation can be get over only after the trial.



Crl.O.P(MD).No.4771 of 2020

8.From the records, it is seen that the defacto complaint was residing with her parents. On 29.11.2014, she went to the house of the second respondent seeking financial help for giving treatment to her daughter. There is specific overt act against A1, A2 and A6. The allegation against the petitioners 3 to 5 is that they threatened to attack the defacto complainant with broom stick. The offence mentioned against the petitioners 3 to 5 is vague. Hence, this Criminal Original Petition is allowed with regard the petitioners 3 to 5. The overt act against A1, A2, A6 is specific. Hence, this Criminal Original Petition is dismissed as against A1, A2, A6. Consequently, connected miscellaneous petitions are closed.

02.06.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

To

- 1.The Inspector of Police,
All Women Police Station,
Samayanallur,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P(MD).No.4771 of 2020

R. THARANI,J.

Mrn

CrI.O.P(MD).No.4771 of 2020

02.06.2023