



Crl.O.P.(MD)No.3286 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2023**

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CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

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1.J.Meganathan

2.J.Saraswathi

3.R.Rajalakshmi

4.J.Vasudevan

5.J.Ravichandran

6.J.Sathiyamoorthy

7.S.Sasikala

8.J.Krishna Moorthy

... Petitioners/Accused Nos.1,3 to 9

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Thiruparamkundran,
Madurai.

In Crime No.39 of 2007.

... 1st Respondent/Complainant

2.M.Karthikeyini

... 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the complaint and charge sheet filed in C.C.No.384 of 2014, pending on the file of the Additional Mahila



Court, Madurai.

For Petitioners : Mr.T.Jeen Joseph
For Respondents : Mr.Sakthi Kumar for R1
Government Advocate (Crl. Side)

Mr.T.Palanisamy for R2

ORDER

This criminal original petition has been filed to quash the charge sheet filed in C.C.No.384 of 2014, pending on the file of the Additional Mahila Court, Madurai.

2.The case of the prosecution:

The defacto complainant who is the second respondent herein lodged a complaint with the following allegations. The marriage between the 1st petitioner and the defacto complainant took place on 02.07.1991. At the time of marriage, she was provided with jewels, car etc., At the time of marriage, the husband was working in Abroad. She also joined with him in Abroad and living there happily. After few months, she got appointment in Chennai. Therefore, she returned to India and stayed in separate house, started living along with accused No.2 to 7 & 9. From the date onwards, she was harassed and ill-treated by in-laws and her physical was also insulted and abused. The second accused also tried to misbehave with her. When that was informed to the husband, he did not



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take any proper care. Later husband was also returned to India and he was also tortured her demanding money. Therefore, totally Rs.5,50,000/- was given to the husband and a house was purchased in the year 2000 by availing loan. Her salary was also obtained by force and lorry was purchased by the fourth respondent in her husband's name. Continuously, she was given torture. In the meantime, the husband got a job in Ethiopia. Again he demanded money and jewels. Later she was transferred to Madurai and husband used to come twice in a year. Thereafter, he came to India and used to torture her at the instance of the other accused. On 04.05.2007, at the instance of the accused Nos.2 to 9, she was assaulted, demanding car. Again on 05.05.2007 at about 03.00 p.m., she was assaulted by the first accused with iron rod, iron blower, etc., When that was prevented by the first son, he was also assaulted. He also tried to strangle her. At the intervention of the neighbours, the further assault was prevented. Even though complaint was given, no proper action was taken. In the meantime, the husband was again went to Abroad. Only parents of her husband attended the enquiry. He sent money only for three months and thereafter failed.

3. With these allegations she filed a complaint before the learned Judicial Magistrate No.V, Madurai, which was later registered in Crime



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No.39 of 2007, for the offence under Sections 498(A), 294(b), 324 and 506(i) of IPC and Section 4 of Dowry Prohibition Act. After completing the investigation process, final report was filed making allegation against the accused for the offence punishable under Sections 498(A), 406, 324 and 506(i) of IPC and Section 4 of Dowry Prohibition Act. Seeking quashment of the same, this petition has been filed by accused No.3 to 9 on the ground that after filing of the charge sheet there was compromise between the parties and in the meantime second accused also died. Because of the above said compromise, now the first petitioner and the defacto complainant are residing and living together.

4.But however, when the matter was taken up for hearing, the second respondent disputed her signature in the joint compromise, which was filed along with the petition. She was also present before this Court and again the matter was referred to the Mediation and there was no settlement between them. Along with the quash petition an affidavit of defacto complainant was filed by the petitioner. But that was disputed by the second respondent. So the matter was ordered to be heard on merits.



6. Thereafter, she shifted her residence to Madurai on the eve of her marriage. At that time, at the instance of these accused namely 2 to 9, she was physically tortured on two days. So it is seen that on the particular date of occurrence they were living separately from the accused Nos. 2 to 9. Accused Nos. 2 to 9 are no way involved in the daily affairs of their family life. The above allegation has been stated against accused Nos. 2 to 9. It is not sufficient enough to criminally prosecute the accused Nos. 2 to 9.



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7.It is also on record to show that there was compromise between the parties and they were living together, only at that time, the above said assault said to have been taken place on particular day namely on 04.05.2007 and on 05.05.2007. Accused Nos.2 to 9 were not at all present in the place of occurrence, when the above said assault said to have been made by the first accused. Mere said statement as mentioned above is not sufficient. Absolutely, there was no motive for accused Nos. 2 to 9 against the defacto complainant.

8.At this juncture, the judgment of Honourable Supreme Court in the case of ***Preeti Gupta & Another Vs. State of Jharkhand and another*** reported in (2010) 7 SCC 667, has given elaborate guidelines to the police Officers and as well as the courts dealing with matrimonial issues to be very cautious and careful to proceed against the in-laws. Natural and usual courses that is adopted by the wife to implicate the in-laws was also highlighted by the Honourable Supreme Court. When we apply the above said principle to the fact of this case, it is clear that only bald allegation has been made purposely to implicate them in the criminal offences. The issue is only between the husband and wife, which has been extended to the in-laws also. So I am of the considered view



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that the continuation of process of criminal proceedings against the accused No.2 to 9 will be nothing but abuse of the process of the Court. Accused No.2 is already dead. Therefore, this Court is inclined to allow this petition in respect of the accused Nos.3 to 9 alone.

9.In the result, this Criminal Original Petition is **dismissed** in respect of the first petitioner/accused No.1. In respect of the others namely the petitioners 2 to 8/accused Nos.3 to 9, this Criminal Original Petition is **allowed** and the proceedings against them in C.C.No.384 of 2014, pending on the file of the Additional Mahila Court, Madurai, is hereby quashed. Insofar as the case against the first petitioner/Accused No.1 is concerned, the Additional Mahila Court, Madurai, is directed to expedite the trial process and complete the same within a period of **five** months from the date of a copy of this order, since the case is of the year 2014 and the crime is of the year 2007.

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Index : Yes/No
Internet : Yes/No
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To

1.The District Judge, Additional Mahila Court, Madurai.



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2. The Inspector of Police,
All Women Police Station,
Thiruparamkundran,
Madurai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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