



Crl.O.P(MD).No.3345 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.3345 of 2019

and

Crl.M.P.(MD)Nos.1887 and 1888 of 2019

- 1.Mariya Innasimuthu Arockiyam @ Innasi Muthu
- 2.Panimatha
- 3.Anthoniammal
- 4.Anthonisamy
- 5.Iruthayam @ Iruthayaraj

...Petitioners

Vs

- 1.The State Rep. by Inspector of Police,
All Women Police Station,
Dindigul.

- 2.Mariya Regina

...Respondents

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, praying this Court to call for the records relating to the impugned final report dated 31.10.2016 filed in C.C.No.44 of 2017 on the file of the learned Judicial Magistrate No.II, Dindigul, concerned station, Dindigul and quash the same.

For Petitioners	: Ms.M.Viji
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: No Appearance



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ORDER

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This petition is filed to quash the charge sheet in C.C.No.44 of 2017 dated 31.10.2016, on the file of the learned Judicial Magistrate No.II, Dindigul.

2.According to the petitioners, the first respondent registered FIR in Crime No.27 of 2016 as against this petitioners for the offence under Sections 294(b), 498(A), 506(i) of IPC r/w. Section 4 of Dowry Prohibition Act. As per allegation in FIR, the marriage between A1 and the second respondent are said to have been performed on 11.09.2011. Due to cruelty caused by the husband of the second respondent, she came out of matrimonial home and living separately. On 28.06.2016, A1 having intimacy with a girl working in mill along with him. The second respondent came to A1 and questioned about the same. At the time, A2 and A5 pushed her down and A2 and A3 assaulted her and A6 abused in filthy language. Therefore, she lodged a complaint before the first respondent and the FIR was registered in Crime No.27 of 2016. Thereafter, they filed final report in C.C.No.44 of 2017 on the file of the learned Judicial Magistrate No.II, Dindigul. In fact these petitioners are distant relatives of A1 and no offence was committed as alleged in the FIR. The second respondent gave birth to child on 07.09.2012 and thereafter, she was living separately and away from A1. Thereafter, divorce petition was also



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filed in I.D.O.P.No.47 of 2014 and the same is pending before the Family Court, Dindigul. Thereafter, the second respondent filed this false complaint.

Hence, the petitioners filed this petition to quash the charge sheet.

3.No counter has been filed on the side of the respondents.

4.The learned counsel appearing for the petitioners contended that the second respondent had given false complaint against these petitioners and are false allegations. There is matrimonial dispute pending between A1 and second respondent. In fact the second respondent was living separately on the date of occurrence. No alleged occurrence was taken place. These petitioners are not blood relatives and they are distant relatives of A1. The allegations levelled against these petitioners are that they abused in filthy language and assaulted the defacto complainant. There is no ingredients to constitute the offence under Section 498A of IPC and the allegations levelled against the petitioners are general and omnibus. Only due to matrimonial dispute, these petitioners were wrongly implicated in the case. Thereby, the charge sheet against the petitioners is liable to be quashed.

5.The learned Government Advocate appearing for the first respondent has contend that based on the complaint given by the second respondent, the



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first respondent has registered FIR in Crime No.27 of 2016 and thereby, investigated the case and filed final report. As per final report, there are *prima facie* materials available. A2 and A5 abused in obscene words and A3 and A4 assaulted the victim and abused her in obscene words and hence, the first respondent filed final report. As per final report, there was specific overt act against these petitioners. Thereby at this stage, they have to face trial and the petition is liable to be dismissed.

6.This Court heard both sides and perused the materials available on records.

7.On perusal of records, it is observed that already the defacto complainant left from the matrimonial home and she was residing in some other place. On perusal of the complaint, it is seen that the allegation as against the petitioners are that these petitioners abused in obscene words and also assaulted her on the date of occurrence. These allegations are bald allegations and already there is matrimonial dispute pending between A1 and the second respondent. These petitioners are not blood relatives of A1 and there is no specific allegations against these petitioners with regard to any dowry or harassment and only allegation is that on the date of occurrence, they abused her in filthy language and assaulted her. The matrimonial dispute



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was pending at the time of filing of FIR and also the defacto complainant was not living with A1. These omnibus allegations alone are not sufficient to constitute the offence under Section 498A of IPC and as far as the other offences are concerned, the allegations are bald allegations. Based on the bald allegations, the petitioners need not face trial and these petitioners are distant relatives of A1.

8.The learned counsel appearing for the petitioners relied upon the judgment of the Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam and Ors. v. State of Bihar and Ors.*** reported in ***2022 Livelaw (SC) 141***, wherein the Hon'ble Supreme Court in para nos.19 and 20 held as follows:-

“19.Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e., none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and



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can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

9.On careful perusal of the said judgment, it is clear that based on the general and omnibus allegations do not warrant prosecution. In this case on hand also, the allegations are general and omnibus, thereby, the said case law squarely applicable to the present facts of the case.

10.In view of the above judgment and as discussed supra, this Criminal Original Petition is allowed and the charge sheet as against the petitioners in C.C.No.44 of 2017 dated 31.10.2016, on the file of the learned Judicial Magistrate No.II, Dindigul is hereby quashed. Consequently, connected miscellaneous petitions are closed.

14.08.2023

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



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To

- 1.The Judicial Magistrate No.II, Dindigul District.
- 2.The Inspector of Police,
All Women Police Station,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P. DHANABAL,J.

Mrn

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