



Crl.O.P(MD).No.9937 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.9937 of 2021

and

Crl.M.P.(MD)No.5075 of 2021

1.Ram Prasath
2.Suyambukani
3.Rathi Devi
4.Sasi Devi
5.Ramesh
6.Saravanan
7.Amirtha Lingam

...Petitioners

Vs

1.State through,
The Inspector of Police,
All Women Police Station,
Tiruchendur,
Thoothukudi District.
Crime No.16 of 2020
2.Priya

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records of the FIR in Crime No.16 of 2020 on the file of the first respondent on 09.08.2020 and quash the same as illegal.

For Petitioner
For Respondent

: Mr.S.Ragaventhre
: Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

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2.According to the petitioners, the second respondent filed a petition before the learned Judicial Magistrate, Tiruchendur and it was forwarded to the first respondent police and based on the complaint, FIR in Crime No.16 of 2020 for the offences under Section 498A of IPC and Section 4 Dowry Prohibition Act was registered against the petitioners.

3.The prosecution case is that all the accused demanded dowry and caused cruelty to the defacto complainant. The petitioners are arrayed as A1 to A7. The first petitioner is husband of the defacto complainant and the second petitioner is mother in law and the petitioners 3 and 4 are sisters in law and the fifth petitioner is husband of third petitioner and sixth petitioner is husband of fourth petitioner and the seventh petitioner is maternal uncle of first petitioner. The marriage between the first petitioner and defacto complainant was solemnized on 29.05.2015. At that time, the parents of the defacto complainant had given 200 sovereigns of gold jewels and Rs. 20,00,000/- cash and household articles worth about Rs.1,00,000/- was given and they also presented 10 sovereigns of gold ornaments to the first petitioner.



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The first petitioner along with other accused caused cruelty and demanded more dowry.

4.In fact the petitioners have not demanded any dowry from the defacto complainant and already the first petitioner filed a petition for divorce in H.M.O.P.No.63 of 2019 before the Sub Court, Tiruchendur. In order to wreck vengeance for H.M.O.P. Proceedings, this false complaint has been foisted against the petitioners. The Social Welfare Officer also filed a report stating that there was no dowry harassment. But without considering the same, the FIR has been registered as against the petitioners. Even according to the FIR, the allegations are omnibus and general and no specific allegation as against the petitioners and FIR is liable to be quashed.

5.No counter was filed by the respondents.

6.The learned counsel appearing for the petitioner has argued that the first respondent registered a case against the petitioners based on the complaint given by the second respondent for the offence under Section 498A of IPC and Section 4 of Dowry Prohibition Act in Crime No.16 of 2020 before the Sub Court, Tiruchendur. Prior to the filing of the H.M.O.P. Proceedings, the first petitioner send a legal notice dated 27.11.2019 to the second



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respondent for restitution of conjugal rights. After receipt of notice, the second respondent sent a reply on 04.12.2019 to the first petitioner. Already the District Social Welfare Officer had enquired the matter and after counseling, she filed a report stating that there is no demand of dowry. Thereafter, in order to wreck vengeance to the petitioners, the second respondent has filed this false complaint. Based on the false complaint, the first respondent police have registered FIR with bald allegations. Even according to the complaint, the averments are omnibus and general and therefore, the registration of the FIR based on the general and omnibus is abuse of process of law and thereby, the FIR is liable to be quashed.

7.The learned counsel appearing for the second respondent would contend that the second respondent married the first petitioner in the year 2015. At that time, they presented 200 sovereign of gold jewels, Rs.2,00,000/- cash and also presented household articles worth about Rs.1,00,000/- and 10 sovereigns of gold ornaments presented to the first petitioner. Thereafter, the petitioners caused cruelty by demanding more dowry from the second respondent. Thereby she lodged a complaint before the Magistrate and thereafter, the same was forwarded to the first respondent and based on the complaint, the first respondent registered a case against the petitioners.

Therefore, the investigation is at initial stage and thereby, now the petition is



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not maintainable and this is liable to be dismissed.

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8.The learned Government Advocate appearing for the first respondent contended that based on the complaint given by the second respondent, the learned Magistrate forwarded the same to the first respondent. The first respondent registered a FIR and now the case is pending for investigation and the investigation is at initial stage. At this stage, without elaborate investigation, the case cannot be disposed of. Therefore, the petition is liable to be dismissed.

9.Heard both sides and perused the materials available on records.

10.On perusal of the records, it is seen that the second respondent filed a petition before the Judicial Magistrate, Tiruchendur and the same was forwarded to the first respondent police and based on the complaint, the first respondent registered FIR in Crime No.16 of 2020 for the offence under Section 498A of IPC and Section 4 of Dowry Prohibition Act.

11.The main contention of the petitioners is that they have not committed any offence. They never demanded dowry from the second respondent and already the first petitioner has filed a divorce petition in



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H.M.O.P.No.63 of 2019 and the same is pending. Prior to that, notices were exchanged between the parties and in order to wreck vengeance, the present complaint has been lodged.

12.The respondents contention is that the petitioners demanded dowry and thereby, she gave a compliant. Based on the complaint, FIR has been registered.

13.In this case, the allegations as against the petitioners are general and omnibus allegations and there is no specific allegation and it is admitted fact that already H.M.O.P. Proceedings are pending between the parties. Prior to the filing of the H.M.O.P. Proceedings, notices were exchanged between the parties. After exchange of notices only, this complaint has been filed as against the husband and in laws. Further already the District Social Welfare Officer also conducted enquiry and based on the enquiry, there was no any demand of dowry by the petitioners. Therefore, according to the report of the Social Welfare Officer, there was no demand of dowry and even according to the complaint, the allegations are bald allegations and general and omnibus.

14.At this juncture, this Court would like to rely upon the decision of the Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam and***



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ors. v. State of Bihar and Ors. reported in **2022 Livelaw (SC) 141**, wherein

the Hon'ble Supreme Court in para no.19 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 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.”

15.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.



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16.The learned counsel appearing for the second respondent relied upon the order of this Court in the case of W.Kavitha v. The Superintendent of Police and others in Crl.O.P.(MD)No.18377 of 2017, wherein this Court para no.7 held as follows:-

“7.The learned counsel for the petitioner admits that the report of the District Social Welfare Officer is only a step in aid, in the process of investigation by the investigating Agency. The report of the District Social Welfare Officer is not final and it cannot or need not be challenged independently, as it is only a preliminary opinion, which does not affect the merits of the case, which will be decided on the basis of proof of allegations.”

17.On careful reading of the order, it will not applicable to the present facts of the case. In that case, the case was challenged only based on the reported submitted by the Social Welfare Officer. In that context, it was held that the report of the Social Welfare Officer is not final and it cannot or need not be challenged independently. In this case, the report of the Social Welfare Officer shows that there is no demand of dowry and there is no specific allegations in the FIR.



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18.In view of the above judgment and as discussed supra, this Criminal Original Petition is allowed and the FIR as against the petitioners in Crime No.16 of 2020, on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

05.09.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

- 1.The Judicial Magistrate, Tiruchendur.
- 2.The Inspector of Police,
All Women Police Station,
Tiruchendur,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

Mrn

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