



CRL.O.P.(MD)No.11943 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.O.P.(MD)No.11943 of 2021

and

CRL.M.P.(MD)No.6102 of 2021

Lathil Jenish Jose

... Petitioner / Accused No.1

-Vs-

1.The State represented by

The Inspector of Police,

All Women Police Station,

Kanyakumari District.

... 1st Respondent / Complainant

2.Kernal Rubi

... 2nd Respondent / Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying this Court to call for records in Crime No.18 of 2021 pending investigation on the file of the 1st respondent Police and quash the same as against the petitioner.



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For Petitioner : Mr.P.T.Ramesh Raja
For R1 : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
For R2 : Mr.G.Anto Prince

ORDER

The petitioner / the 1st accused filed this petition to quash the First Information Report in Crime No.18 of 2021 on the file of the 1st respondent.

2.The case of the prosecution is that the defacto complainant married the petitioner on 23.12.2008 and at the time of marriage, 60 sovereigns of gold jewels, a sum of Rs.3,00,000/- (Rupees Three Lakhs Only), household articles worth about Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) and a plot were given to the petitioner as dowry. There are two children born out of the wedlock. Thereafter, the defacto complainant came to know that the petitioner had affair with number of women. Therefore, there was a dispute arose between them and the petitioner said to have assaulted the defacto complainant continuously and demanded additional dowry. Without tolerating the same, the defacto complainant left the matrimonial home.



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3. Thereafter, the petitioner filed a petition in I.D.O.P.No.202 of 2018 seeking conjugal rights and the same was dismissed, directing the petitioner to pay a sum of Rs.6,000/- (Rupees Six Thousand Only) as maintenance for children and a sum of Rs.40,000/- (Rupees Forty Thousand Only) yearly once for the educational expenses of the children. When the matter stood thus, after coming to know that the petitioner was living with another woman, the defacto complainant went to the house of the petitioner and requested the petitioner to adhere the directions of the Court to pay maintenance amount, however, the petitioner and the another woman had threatened the defacto complainant. Therefore, she made a complaint before the jurisdictional police officer, however, the same was not taken on file. Hence, she made a petition under Section 156 Cr.P.C., before the Additional Mahila Court, Nagercoil, who in turn directed the respondent Police to register a case against the petitioner. On receipt of the said order, the 1st respondent Police registered a case in Crime No.18 of 2021 against the petitioner for the offences punishable under Sections 498(A), 406 IPC r/w 4 of Dowry Prohibition Act, 1969.



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4.The learned Government Advocate (Crl.Side) appearing for the 1st respondent would submit that during the pendency of this petition, the Investigation Officer after completing the investigation filed final report before the Additional Mahila Court, Nagercoil and the same was also taken on file in C.C.No.52 of 2023 for the offences under Sections 498(A), 406, 494, 294(b), 506(2) IPC and Sections 4 and 6 of Dowry Prohibition Act, 1961.

5.The learned counsel for the petitioner would submit that inspite of the stay granted by this Court, the Investigation Officer filed final report in violation of the order of this Court, however, he seeks indulgence of this Court to withdraw this petition with liberty to file an appropriate petition challenging the final report filed in C.C.No.52 of 2023.

6.In view of the above, this Criminal Original Petition stands dismissed as withdrawn with liberty to the petitioner to file an appropriate petition challenging the final report. Considering the submission made by the learned counsel for the petitioner that though there is an order of interim stay not to file final report, the Investigation Officer filed final report, which amounts to



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violation of the order of this Court, it is open to the petitioner to file appropriate proceedings against the Investigation Officer, who violated the interim order granted by this Court. Consequently, connected miscellaneous petition is closed.

26.04.2023

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

MYR

To:

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



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K.K.RAMAKRISHNAN, J

MYR

Order made in
CRL.O.P.(MD)No.11943 of 2021

Dated:

26.04.2023