



Crl.O.P.(MD).No.13575 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.13575 of 2021

and

Crl.M.P(MD) No.7067 of 2021

1. A.Saravanaprakash
2. Veeralakshmi
3. Kousalyabharathi
4. S.Malmurugan

... Petitioners

Vs.

1. The Sub Inspector of Police
Keelarajakularaman Police Station
Keelrarajakularaman
Virudhunagar District

2. P.Abinayalakshmi

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the First Information Report in Crime No.133 of 2021 on the file of the Sub Inspector of Police, Keelarajakularaman Police Station, Keelarajakularaman , the first respondent herein and quash the same by allowing this Criminal Original Petition.



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For Petitioners : Mr.M.Thirunavukkarasu
For R-1 : Mr.M.Sakthikumar
Government Advocate(Crl.Side)
For R-2 : M/s.Seenisyed Amma
for M/s.Lajapathi Roy associates

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.133 of 2021 on the file of the first respondent police.

2. According to the petitioners the second respondent gave complaint as against these petitioners before the learned Magistrate and the same was forwarded to the first respondent and the first respondent registered the case in Crime No.133 of 2021 for the offences under Sections 420r/w.120(B) of IPC. According to the prosecution case already the second respondent filed petition in DVC No.15 of 2019 on the file of the learned Judicial Magistrate, Rajapalayam under Section 12 of Protection of Women from Domestic Violence Act, 2005 as against the petitioner herein and the same for posted for judgment on 05.05.2021. At that time the petitioner 3 and 4 have stated that at their instigation only the first petitioner has taken her to foreign country and he will live with the second respondent only on the advice of them. Further the



petitioner 3 and 4 stated that the first petitioner going to marry some other girl and the same caused mental agony to the second respondent .

The first respondent police conducted enquiry on the complaint of the second respondent and closed the same. After closure of complaint the second respondent filed petition under Section 156(3) of Cr.P.C. in Crl.M.P. No.3662 of 2021 on the file of the learned Judicial Magistrate, Rajapalayam and pursuant to the complaint, First Information Report has been registered on 18.06.2021. As per the direction of the learned Magistrate the first respondent conducted preliminary enquiry and registered the First Information Report in Crime No.133 of 2021 for the offences under Section 420 r/w.120(B) of IPC and even according to the complaint no offence is made out as against these petitioners and the averments are vague and bald allegations and therefore the pending First Information Report is abuse of process of law and thereby it is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioners would contend that the second respondent is the wife of the first petitioner and the other petitioners are in-laws and only in order to rope the in-laws the present complaint has been given as against these petitioners. Already the second respondent after this registration of the First Information



Report gave mutual consent for divorce and based on the consent given by the second respondent divorce was granted. The learned Magistrate has directed the first respondent to enquire the matter and if any cognizable offence is made out then register the First Information Report but the first respondent has not conducted preliminary enquiry and without compliance of the order of the Magistrate the police straight away registered First Information Report. Further there is no ingredients to constitute the offence under Sections 420 r/w.120(B) of IPC and the allegations are bald and value, thereby the First Information Report is liable to be quashed.

5. The learned counsel appearing for the second respondent would contend that as per the complaint given by the second respondent offence under Section 312 of IPC also made out and the petitioners conspired together and cheated the defacto complainant. The first petitioner assaulted the defacto complainant and thereby she got aborted, therefore the matter has to be investigated elaborately and at this stage the petition is not maintainable. Further the second respondent also submitted medical records to the police and they have not properly enquired the matter, therefore the matter needs investigation and at this stage the petition is liable to be dismissed. Already the second respondent filed complaint before the police and the police has closed the same as 'Mistake of Fact' without registration of the First Information



Report . Hence the second respondent filed complaint before the learned Magistrate and the learned Magistrate also forwarded the complaint to the first respondent and based on the same the first respondent registered the First Information Report.

6. The learned Government Advocate(Crl.Side) appearing for the first respondent would contend that based on the complaint given by the first respondent the learned Magistrate has forwarded the complaint to the first respondent and based on that they registered First Information Report and the same is pending for investigation. The case was partly investigated and due to stay granted by this Court the final report has not been filed and at this stage this petition is not maintainable and is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. It is admitted fact that there are so many matrimonial disputes pending between the parties. Thereafter the marriage between the first and the second respondent also dissolved by mutual consent in the year 2021. The complaint has been lodged in the year 2018. Based on the complaint given by the second respondent the first respondent registered a case under Sections 420 r/w.120(B) of IPC. There is no



specific allegation to constitute the offence under Sections 120(B)r/w. 420 of IPC. the allegation mentioned in the complaint is that at the time of delivering judgment in DVC No.15 of 2019 the petitioners 2 to 4 represented that under their instructions only the first petitioner has taken her to foreign country and the first petitioner only act according to their instructions. Apart from this no other allegation has been levelled as against the petitioners.

9.At this juncture the learned counsel appearing for the second respondent brought to the knowledge of this Court that the complaint averments are in the month of January 2018. The second respondent was also assaulted by the first petitioner and thereby she got aborted, thereby the offence under Section 312 of IPC is also attracted. Therefore the matter needs elaborate investigation and at this stage this Court cannot decide the same. Further she admitted that consent divorce was granted in the year 2022 itself. At the time of giving consent divorce these criminal case is pending and there is no reference about this criminal case. Since already marriage between the second respondent and the first petitioner was dissolved and the complaint was given due to matrimonial dispute and the complaint allegations are not specific and vague, the pending First Information Report is pure abuse of process of law and the petitioners need not face the ordeal of trial based on bald and vague allegations.



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10. Accordingly this Criminal Original Petition is allowed and the First Information Report in Crime No.133 of 2021 on the file of the first respondent is hereby quashed. Consequently connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

1. The Sub Inspector of Police
Keelarajakularaman Police Station
Keelrarajakularaman
Virudhunagar District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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