



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

CrI.O.P.(MD) No.13165 of 2020

and

CrI.M.P(MD).Nos.6026 and 6027 of 2020

Sinekapoo

... Petitioner /2nd Accused

Vs.

1. The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.
(Crime No.27 of 2018)

... Respondent /Complainant

2. Hema Merlin

... Respondent /Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for records in C.C.No.353 of 2020 on the files of Judicial Magistrate Court-I, Kuzhithurai and to quash the same as against the petitioners.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.P.Kottaichamy,
Government Advocate(CrI.Side)
for R1

: Mr.R.M.Arun Swaminathan for R2



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ORDER

This petition has been filed to quash the proceedings in C.C.No. 353 of 2020 on the file of Judicial Magistrate Court-I, Kuzhithurai, as against the petitioner.

2.The case of the prosecution is that the petitioner is the mother-in-law of the second respondent/defacto complainant. The marriage between the second respondent/defacto complainant and the first accused was solemnized on 03.01.2003, as per Christian rites. Out of their wedlock, a male and a female children were born and their son is a special child. At the time of marriage, the parents of the defacto complainant gave a sum of Rs.5,00,000/-, 75 sovereigns of gold jewels and household articles as demanded by the petitioner's family. Thereafter, the petitioner and other accused indiscriminately assaulted the second respondent/defacto complainant by demanding additional dowry from the second respondent. The first accused is not taking care of the defacto complainant and her children. Hence, the defacto complainant filed D.V.C.No.9 of 2017, before the learned Judicial Magistrate No.I,



Kuzhithurai, seeking return of dowry and the same was dismissed for default on 10.04.2019 and the jewels and other articles have been returned to the second respondent. Thereafter, the second respondent lodged a complaint before the first respondent Police. Since no action was been taken by the first respondent police, the second respondent filed a petition under Section 156(3) of Cr.P.C., in C.M.P.No.3904 of 2017 before the Judicial Magistrate Court-I, Kuzhithurai. The same was allowed and directed the first respondent to register the case. Based on which, the first respondent Police registered a case in Crime No.27 of 2018 for the offence under Sections 498(A) and 406 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1960. After completion of investigation, the final report was filed and the same was taken on file in C.C.No.353 of 2020 by the Judicial Magistrate Court-I, Kuzhithurai. Challenging the same, this petition has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the first respondent Police and the learned counsel appearing for the second respondent/defacto complainant.



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4.The learned counsel appearing for the petitioner submitted that the petitioner is the mother-in-law of the second respondent. He further submitted that an omni bus allegation is made against the petitioner as if the petitioner has instigated A1 to assault her. Therefore, no ingredients to constitute the offence under Section 498(A) are available against the petitioner. In this regard, the the learned counsel appearing for the petitioner relied upon the following Judgments:

(i). In the case of ***P.Subba Reddy and others Vs. The State of Telangana*** in ***Crl.O.P.No.2967 of 2017***.

(ii). In the case of ***Kahkashan Kausar @ Sonam and others Vs. the State of Bihar and others*** reported in ***2002 (6) SCC 599***.

Hence, the learned counsel for the petitioner seeks indulgence of this Court to quash the proceedings.

5.The learned Government Advocate (Crl. Side) appearing for the first respondent Police, on instructions, submitted that there is sufficient material to constitute the offence and to proceed the trial. In this context, he would rely on the statement of the defacto complainant recorded under Section 161 statement and also other witnesses namely L.Ws.2 to 4.



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6.The learned counsel appearing for the second respondent/defacto complainant, also reiterated the submission of the learned Government Advocate (Crl.Side).

7.This Court considered the rival submissions made on either side and perused the records and the precedents cited by the learned counsel for the petitioner.

8.As per the final report, A1 caused cruelty and assaulted the defacto complainant. The sweeping allegation against this petitioner is that, she also participated in the harassment. The said sweeping statement, according to the view of this Court, did not constitute any offence against the petitioner. In the Honourable Supreme Court cited supra, it is stated that only with a sweeping statement without any further material to constitute the offence to proceed against in laws is abuse of process of law. This Court finds, except the statement of the defacto complainant, there is no other averment and also no material to proceed against the petitioner by the prosecution. Even taking into consideration of the statements of L.Ws.2 to 4, except sweeping statement of the



defacto complainant, no other incriminating materials are found against her.

9. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected criminal miscellaneous petitions are closed.

05.12.2023

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

vsg

To

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



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K.K.RAMAKRISHNAN, J.

vsg

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