



Crl.O.P.(MD).No13618 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :14.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.13618 of 2020

and

Crl.M.P(MD) Nos.6247 and 6248 of 2020

Ashok kumar

... Petitioner

Vs.

1. The Inspector of Police
All Women Police Station
Sattur, Virudhunagar District

2. Geetha

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C. No.20 of 2020 pending on the file of the learned Judicial Magistrate No.I, Sattur and quash the same.

For Petitioner : Mr.M.S.Jeyakarthik

For R-1 : Mr.M.Sakthi Kumar
Government Advocate(Crl.Side)

For R-2 :Mr.K.P.Sankarakumarakuruparan

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C. No.20 of 2020 pending on the file of the learned Judicial Magistrate No.I, Sattur .



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2. According to the petitioner the second respondent gave complaint before the All Women Police Station, Sankarankovil on 06.01.2018 as against the petitioner and others. Since complaint was not registered she filed a complaint under Section 156(3) before the learned Judicial Magistrate, Sankarankoil in Crl.M.P.No.261 of 2018. Based on the direction issued by the learned Judicial Magistrate, Sankarankovil, All Women Police Station, Sankarankovil registered a case in Crime No.01 of 2018 for the offences under Sections 294(b), 498(A) and 506(ii) of IPC. Thereafter the said case was transferred to the file of All Women Police Station, Sattur on the ground of jurisdiction point and then the First Information Report has been registered in crime No.1 of 2019 by the respondent police for the offences under Sections 294(b), 506(ii) and 498(A) of IPC and section 4 of D.P.Act. Thereafter the respondent police filed final report and the same was taken on file by the learned Judicial Magistrate No.I, Sattur in C.C. No.20 of 2020. In that case the petitioner was arrayed as A5. The case of prosecution is that the second respondent married one Rajivgandhi on 08.11.2009 who is A1 in this case. The second accused is the maternal uncle and the third accused is the sister of the first accused and the fourth accused is the husband of the third accused and the fifth accused is the son of the A3 and A4. As per prosecution case, the accused 2 to 5 arranged marriage between the first accused and the defacto complainant. Since the first accused was



working in Army whenever he return from army at the instigation of the accused 2 to 5 the first accused tortured the second respondent physically and mentally in a drunken mood. Further all the accused harassed her and insisted her to bring dowry. Thereafter the second respondent gave complaint and the respondent registered a case and then altered the sections from 294(b), 506(ii), 498(A) of IPC and Section 4 of D.P.Act into Sections 294(b), 406, 506(ii), 498(A) of IPC and Section 4 of D.P.Act. Infact the petitioner has not committed any offence as alleged in the First Information Report . The first respondent without conducting any proper enquiry filed final report and the same is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel for the petitioner would contend that the petitioner has given petition before the learned Judicial Magistrate, Sankarankovil and the Magistrate has forwarded the petition under Section 156(3) of Cr.P.C to the All Women Police Station, Sankarankovil and thereafter it was transferred to the file of the first respondent herein on the ground of jurisdiction. Thereafter the first respondent investigated the case and filed final report. The first respondent has not investigated the case in a proper manner and there is no specific allegation as against this petitioner and the allegations are only general and omnibus .



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The investigation officer failed to investigate the case in a proper manner and mechanically filed final report as against this petitioner. The petitioner is no way connected with the crime. He is the sister son of the first accused and in order to rope him as an accused a false complaint has been given by the second respondent. Further on the date of occurrence the petitioner was not present in the scene of occurrence and he was present in the coaching centre at Tenkasi, therefore the above said charge sheet is liable to be quashed.

5. The learned counsel appearing for the second respondent/defacto complainant would contend that this petitioner along with other accused have tortured the defacto complainant and demanded dowry and very often they used to harass the defacto complainant and thereby she lodged complaint before the All Women Police Station, Sankarankovil and the same was not enquired by them. Hence she filed a petition under Section 156(3) of Cr.P.C and the same was forwarded to the file of the first respondent and the first respondent after elaborate investigation filed final report and as per the final report this petitioner also directly participated in the occurrence. As far as alibi is concerned it is a matter for trial and this defence cannot be considered at this stage and the petitioner has to face the trial and thereby the petition is liable to be dismissed.



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6. The learned Government Advocate(Crl.Side) appearing for the official respondent would contend that based on the complaint given by the second respondent the first respondent registered First Information Report . Thereafter the first respondent conducted thorough investigation and filed final report and as per the final report this petitioner along with other accused had committed the offence as mentioned in the charge sheet. Since *prime facie* materials are available to proceed with the case as against this petitioner and at this stage this petitioner has to face the trial and the petition is liable to be dismissed.

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

8. On perusal of the records, it is observed that the alleged date of marriage is on 08.11.2009. At that time this petitioner was minor and no chance to arrange marriage between A1 and the second respondent. Even according to the complaint no specific allegation has been made as against the petitioner and only general and omnibus allegations are made, as against A2 to A5 with regard to uttering of obscene words. The allegation against this petitioner is that he only instructed the first accused not to live with the second respondent. This vague allegation is not sufficient to constitute the offence as against this petitioner. Further



even according to the final report there is no specific overt act as against this accused and the allegations are general and omnibus.

9. At this juncture the learned counsel for the petitioner relied on the judgment of the Hon'ble Apex Court in the case of ***Kahkashan Kausar and Sonam and Ors.vs. State of Bihar and Ors in Criminal Appeal No.195 of 2022***, wherein it is held as follows:

“18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of [section 498A](#) IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

19. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, 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



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him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution"

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10. On a careful reading of the above judgment it is clear that the Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial dispute and dowry death. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.

11. In view of the above discussion and the as per the judgment of the Hon'ble Apex Court that for general and omnibus allegations this petitioner need not face the trial, thereby the charge sheet is liable to be quashed.

12. Accordingly this Criminal Original Petition is allowed and the proceedings in C.C. No.20 of 2020 pending on the file of the learned Judicial Magistrate No.I, Sattur is hereby quashed in so far the petitioner alone. Consequently connected miscellaneous petitions are closed.

14.08.2023

Index : Yes / No
Internet : Yes / No
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To

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



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P.DHANABAL, J.

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