



WEB COPY



Crl.O.P.(MD).No.14083 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.14083 of 2020

and

Crl.M.P(MD) Nos.6479 and 6481 of 2020

Hameetha Sulthana

... Petitioner

Vs.

1. The Inspector of Police
All Women Police Station
Palani, Dindigul District

2. Jesina Begum

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of the charge sheet in C.C. No.194 of 2018 on the file of the Judicial Magistrate Court, Palani and quash the same as against this petitioner.

For Petitioner	: Mr.S.M.A.Jinnah
For R-1	: Mr.M.Sakthikumar
	Government Advocate(Crl.Side)
For R-2	: Mr.C.Jeganathan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C. No.194 of 2018 on the file of the learned Judicial Magistrate, Palani



2. According to the petitioner the second respondent has given complaint before the first respondent and based on which First Information Report has been registered in Crime No.7 of 2018 for the offences under Sections 498(A), 406,506(i),109 of IPC and Section 4 of D.P.Act. After investigation the first respondent filed final report. According to the prosecution case on 02.02.2017 the defacto complainant got married one Kaleel Rahman. At the time of marriage the parents of the defacto complainant presented 35 sovereigns of gold ornaments and house hold articles worth about Rs.2.5 lakhs. Before marriage the first accused was residing in Palani and the petitioner herein had arranged the marriage for the second respondent with Kaleel Rahman. At that time the petitioner stated that the Kaleel Rahman is petitioner's paternal aunt son and she stated that the Kaleel Rahman is residing with her for about 16 years due to family problem. Thereafter the defacto complainant found that there was illegal relationship between the petitioner and her husband, in such circumstance when the defacto complainant questioned the same, the petitioner and her husband tortured the defacto complainant. Further the said Kaleel Rahman demanded money from the family of the second respondent and threatened her. On 08.03.2018 the petitioner and the husband of the second respondent demanded dowry, beaten the second respondent and tortured her and she was locked in the house. Therefore the neighbors informed to the second respondent family and she was taken to her parent's house. The above said allegation



of the prosecution is entirely false. Infact the defacto complainant is the wife of Kaleel Rahman and the petitioner herein is the paternal sister of the said Kaleel Rahman. Kaleel Rahman passed away before three years. The petitioner only arranged marriage of the said Kaleel Rahman and the second respondent. While the facts are being so, after marriage the said Kaleel Rahman and the second respondent are living separately for the dispute with regard to the suppression of the age by the second respondent, thereby there was frequent quarrel between them. The said Kaleel Rahman field a suit before the Munsif Court, Palani in O.S. NO.70 of 2018 for declaration of the marriage between him and the second respondent as null and void. Thereafter the defacto complainant lodged false complaint before the first respondent and the first respondent without conducting proper investigation filed final report and hence the above said final report is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel for the petitioner would submit that the second respondent give a false complaint as against the petitioner and others and the same was registered in Crime No.7 of 2018 for the offences under Sections 498(A), 406,506(i),109 of IPC and Section 4 of D.P.Act. After investigation the first respondent filed final report and the same was taken cognizance by the learned Judicial Magistrate, Palani in



and thereby she lodged complaint before the first respondent and the first respondent registered a case in Crime No. 7 of 2018 and thereafter investigated the case and filed final report. Based on the final report the trial court has taken the case on file in C.C. No. 194 of 2018 and as per the final report *prima facie* materials are available to prosecute as against the accused persons and it is matter for trial and thereby the petition is liable to be dismissed.

6. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the second respondent, the first respondent has registered the First Information Report in Crime No.7 of 2018 for the offences under Sections 498(A), 406,506(i),109 of IPC and Section 4 of D.P.Act. After investigation the first respondent filed final report and thereafter the case taken on file in C.C.No.194 of 2018. As per the final report there are *prima facie* materials available to proceed with the case and thereby this petitioner has to face trial and this Court cannot look into the veracity of the statements at this stage and thereby this petition is liable to be dismissed.

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



8. According to the petitioner the main accused is A1 and he died. The averments in the First Information Report are as against A1 and this petitioner only arrange the marriage between the first accused and the second respondent. Apart from this the petitioner is no way connected with the case and a false complaint has been given against her. According to the second respondent there was illegal relationship between the petitioner and her husband and thereby they caused criminal intimidation and demanded dowry and also they did not return the sridhana articles presented at the time of marriage, thereby she lodged complaint . On perusal of the complaint averments, *prima facie* offences are made out and the first respondent also investigated the case by examining witnesses and collecting documents and thereafter filed final report. As per the final report also *prima facie* materials available as against the petitioner and thereby the trial Court has taken the case on file in C.C.No.194 of 2018. Since *prima facie* materials are available as against the petitioner to proceed with the case the petitioner has to face trial before the trial Court. In view of the above discussion and as per the guidelines issued by the Hon'ble Apex Court in the case of ***Neeharika Infrastructure Pvt Ltd vs. State of Maharashtra and Others*** reported in ***2021 SCC Online SC 315***, this Court is not inclined to allow the petition at this stage and hence the petition is liable to be dismissed. The petitioner can agitate the grounds raised in this petition before the trial Court.



Crl.O.P.(MD).No.14083 of 2020

WEB COPY

9. At this juncture, the learned counsel appearing for the petitioner represented before this Court that the personal appearance of the petitioner before the trial Court may be dispensed with.

10. As far as dispensing with the personal appearance of the petitioner before the trial Court is concerned, it can only be decided by the trial Court on application filed by the petitioner. On such application, the trial Court is directed to consider the same in accordance with law. All the grounds raised by the petitioner in this petition can be agitated before the trial Court.

11. In view of the same, this criminal original petition stands dismissed. Consequently connected miscellaneous petitions are closed.

11.08.2023

Index : Yes / No
Internet : Yes / No
aav



Crl.O.P.(MD).No.14083 of 2020

To

WEB COPY

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



WEB COPY



CrI.O.P.(MD).No.14083 of 2020

P.DHANABAL, J.

aav

CrI.O.P.(MD).No.14083 of 2020

11.08.2023