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Crl.O.P(MD)No.13989 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 19.12.2023

CORAM

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

Crl.O.P(MD).No.13989 of 2020
and
Crl.M.P(MD).Nos.6430 and 6431 of 2020

1.Natarajan

2.Lakshmi

3.Velmurugan

... Petitioners

Vs.

1.The Inspector of Police,
All Women Police Station,
Sattur,
Virudhunagar District,
(Crime No.2 of 2018)

2.Sujatha

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the entire records pursuant to charge sheet in C.C.No.18 of 2020 on the file of the Judicial Magistrate No.1, Sattur, Virudhunagar District in F.I.R.No.2 of 2018, on the file of the All Women Police Station, Sattur, Virudhunagar District and quash the same against the petitioners.



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For Petitioner :Mr.S.Gokul Raj
For Respondents :Mr.P.Kottaichamy
Government Advocate (Crl.Side)
for R1
: Mrs.P.Krishnaveni
Legal-aid-counsel for R2

ORDER

This Criminal Original Petition has been filed by the petitioners to quash the proceedings in C.C.No.18 of 2020 on the file of the Judicial Magistrate No.1, Sattur, Virudhunagar District.

2. The petitioners are the in-laws and they were arrayed as accused Nos.2 to 4 in C.C.No.18 of 2020 on the file of the Judicial Magistrate No.1, Virudhunagar. A1 is husband of the second respondent. The second respondent made a complaint before the respondent police stating that A1 and the petitioners demanded dowry and also made harassment and criminally intimidated her and with the said allegation the FIR was registered in Crime No.2 of 2018. Earlier, the petitioners filed the Criminal Original Petition before this Court to quash the FIR in a Crl.O.P.No.3696 of 2018 and the same was dismissed with the direction to complete the investigation. On the basis of the direction, the investigation was completed



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and final report was filed before the Judicial Magistrate No.1, Sattur, Virudhunagar, and the same was taken on file in C.C.No.18 of 2020. At this stage, the petitioners filed this petition to quash the proceedings against the petitioners arrayed as A2 to A4.

3.The petitioners submitted that the marriage took place on 30.03.2020 between A1 and the second respondent. There was a family discord and hence, they got separated from 23.02.2019. The petitioners have residence in India in the petition mentioned address. A1 and the second respondent has the matrimonial home in Singapore. The allegation that they demanded dowry and also harassed the defacto complainant and criminally intimidated her is not correct. According to the final report, the charge against the petitioners is under sections 498(a) and 506(ii) of IPC and 4 of Dowry Prohibition Act. In view of the above strained relationship, A1 filed of HMOP against the second respondent. The petitioners no way interfered with the matrimonial dispute between the A1 and the second respondent. The learned counsel further submitted that after a long time from the alleged dispute the complaint has been made without any truth in the allegation and the same was not considered. In view of the same, he placed reliance of the



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judgment reported in AIR 2010 SC 3363. Hence, he seeks to quash the proceedings.

4. Earlier this Court issued a notice to the second respondent. In spite of service of notice, the second respondent did not appear before this Court. Therefore, this Court appointed Legal-Aid-Counsel. The learned Legal-Aid-Counsel has made the following submission:

(i) There is a specific averment in the complaint about the cruelty caused by the petitioners and the same was reduced into FIR and investigated and proper final report was filed. From the final report it is clear that the petitioners also caused cruelty and criminally intimidated the second respondent. Hence, the said averments constitute the offence. Therefore, he seeks for dismissal of this quash petition.

5. This Court considered the rival submissions made by the learned counsel appearing for the petitioners as well as the learned Legal-Aid-Counsel appearing for the second respondent and perused the materials available on record.



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6. The learned counsel for petitioner produced typed set of papers with the material collected by the investigating agency, order in Crl.O.P. (MD).No. 6746 of 2018 and judgment in H.M.O.P.No. 28 of 2012. The petitioner are the in-laws of the defacto complainant. The 2nd respondent married the 1st and 2nd petitioner's son on 13.03.2005. After birth of two children, there was a matrimonial discord between the husband and wife. Therefore, there was a separation from 23.02.2009 onwards and admittedly the matrimonial home was in Singapore. The in laws are living in India in Dindigul District. Due to the matrimonial dispute the husband filed divorce petition in H.M.O.P.No. 28 of 2012 on the file of the Learned Sub Judge, Veda sandur. The 2nd respondent/ wife had appeared and filed the counter. In the counter there was no allegation against the in laws. In the said in H.M.O.P.No.28 of 2012 proceedings, she gave deposition on 06.11.2017. Even in the said deposition there was no allegation against the in laws. That being the situation she prepared the complaint under the domestic violence Act against the petitioners and her husband in D.V.O.P.No. 6 of 2018 on the file of the Learned Judicial Magistrate No. II, Sattur. The petitioners filed the quash petition and this court allowed the same stating that the allegations are false:



“The petitioners herein are only in laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against these petitioners/ in – laws based on the allegations of harassment maintained in view of the fact that the allegation of harassment meted out by the petitioners against the respondent itself seems to be false.”

7. The wife / 2nd respondent also prepared the police complaint in the year 2018 alleging that the petitioners/ her in laws have committed offence under section 498 (A) and 506 (ii) of I.P.C. The petitioners filed the quash petition to quash the FIR and this court dismissed the same on the ground that the investigation was in the preliminary stage and directed to file the final report. The final report also was filed without any material. This court perused the final report. Except allegation that the petitioners intimidated her to give consent for divorce, no other incriminating material was collected. Therefore, the ratio of the Hon’ble Supreme Court held in ***AIR 2010 SC 3363*** in the case of ***Preeti Gupta and another Vs State of Jharkhand and another*** is applicable to the present case.

33.The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of



family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

8. The Hon'ble Supreme Court in the case of ***Geeta Mehrotra v. State of U.P.***, reported in **2012 (10) SCC 741** in para 18 also held as follows :-

18.Their Lordships of the Supreme Court in Ramesh case [(2005) 3 SCC 507 : 2005 SCC (Cri) 735] had been pleased to hold that the bald allegations made against the sister-in-law by the complainant appeared to suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the FIR nor the charge-sheet furnished the legal basis for the Magistrate to take cognizance of the offences alleged against the appellants. The



learned Judges were pleased to hold that looking to the allegations in the FIR and the contents of the charge-sheet, none of the alleged offences under Sections 498-A, 406 IPC and Section 4 of the Dowry Prohibition Act were made against the married sister of the complainant's husband who was undisputedly not living with the family of the complainant's husband. Their Lordships of the Supreme Court were pleased to hold that the High Court ought not to have relegated the sister-in-law to the ordeal of trial. Accordingly, the proceedings against the appellants were quashed and the appeal was allowed.

9. The Hon'ble Supreme Court in the case of **Varala Bharath Kumar v. State of Telangana**, reported in **2017 (9) SCC 413** also held as follows :-

7.While exercising power under Section 482 or under Article 226 in such matters, the court does not function as a court of appeal or revision. Inherent jurisdiction under Section 482 of the Code though wide has to be exercised sparingly, carefully or with caution and only when such exercise is justified by the tests specifically laid down under Section 482 itself. It is to be exercised ex debito justitiae to do real and substantial justice, for the administration of which alone courts exist. The court must be careful and see that its decision in exercise of its power is based on sound principles.



The inherent powers should not be exercised to stifle a legitimate prosecution. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

8. We are conscious of the fact that, Section 498-A was added to the Code with a view to punish the husband or any of his relatives, who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. Keeping the aforementioned object in mind, we have dealt with the matter. We do not find any allegation of subjecting the complainant to cruelty within the meaning of Section 498-A IPC. The records at hand could not disclose any wilful conduct which is of such a nature as is likely to drive the complainant to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the complainant. So also, there is nothing on record to show that there was a demand of dowry by the appellants or any of their relatives, either prior to the marriage, during the marriage or after the marriage. The record also does not disclose anywhere that the husband of the complainant acted, with a view to coerce her or any person related to her to meet any unlawful demand of any property or valuable security.

9. The ingredients of criminal breach of trust are also not forthcoming from the records as against the appellants.



The allegations contained in the complaint and the charge-sheet do not satisfy the definition of criminal breach of trust, as contained in Section 405 IPC. In view of the blurred allegations, and as we find that the complainant is only citing the incidents of unhappiness with her husband, no useful purpose will be served in continuing the prosecution against the appellants. This is a case where there is a total absence of allegations for the offences punishable under Section 498-A and Section 406 IPC. In the matter on hand, the allegations made in the first information report as well as the material collected during the investigation, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute the offences punishable under Sections 498-A and 406 IPC against the appellant-accused. So also the uncontroverted allegations found against the appellants do not disclose the commission of the offence alleged and make out a case against the accused. The proceedings initiated against the appellants are liable to be quashed.

10. Considering the above principles this court inclines to hold that the continuation of the proceedings amounts to abuse of process of law and miscarriage of justice. Merely because the petitioners are in laws of the 2nd respondent they cannot be forced to face the ordeal of trial depriving their



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fundamental right of the innocence on the sweeping allegation that they criminally intimidated the 2nd respondent. The 2nd respondent made the allegation at the fag end of the H.M.O.P proceedings pending from 2012 onwards with ulterior motive and this court also observed the same during the course of the entertaining the quash petition filed by the petitioner to quash the D.V.O.P petition in Crl.O.P.(MD).No. 6746 of 2018.

11. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

19.12.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
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To
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1. The Judicial Magistrate No.I,
Sattur, Virudhunagar.
- 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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K.K. RAMAKRISHNAN,J.

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