



Crl.O.P(MD).No.14984 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 20.04.2023

Delivered On : 02.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.14984 of 2020

and

Crl.M.P.(MD)No.7172 of 2020

1.S.Subramani @ Subramanian

2.S.Jeyalakshmi

3.M.Lalitha

4.S.Sumathi

...Petitioners

Vs

1.The State rep. By

The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
(Crime No.29 of 2020)

2.K.Anitha

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the entire records connected with the case in Crime No.29 of 2020 registered on the file of the respondent no.1 and quash the same as illegal in so far as it related to the petitioners.

For Petitioners

: Mr.I.Sabeer Mohamed

For 1st Respondent

: Mr.M.Veeranthiran

Government Advocate (Crl. Side)



Crl.O.P(MD).No.14984 of 2020

ORDER

WEB COPY

This petition is filed to quash the FIR in Crime No.29 of 2020 on the file of the first respondent Police .

2.The allegation against the petitioners is that A1 by name Karumalaidurai and the defacto complainant got married on 23.06.2016 at Paramakudi. At the time of marriage, 66 sovereigns of gold jewel, household articles worth about Rs.1,00,000/- were given to the defacto complainant. The defacto complainant and the petitioners 2 and 3 lived together as a joint family. A1 harassed the second respondent demanding dowry. A1 to A3 demanded the defacto complainant to bring 50 sovereign of gold jewels and 5 cents of land as additional dowry in the month of August 2016. A1 went to Singapore during the month of December 2016. The second respondent went to Singapore and since she was pregnant, she returned back to her in laws house. On 23.09.2017, the petitioners 3 and 4 came to the house of the defacto complainant and abused the second respondent and attacked her and sent her to her parent's house. After two days, she was blessed with a female child. The complaint of the second respondent in FIR in Crime No.29 of 2020 was registered under Sections 498A, 323, 506(i) of IPC and Section 4 Dowry Prohibition Act and Section 4 of Tamil Nadu Prohibition of Harassment of



Crl.O.P(MD).No.14984 of 2020

Women Act.

WEB COPY

3.The case of the petitioners is that the petitioners did not commit any offence as mentioned in the FIR. They did not demand any dowry or additional dowry. At the time of marriage, A1 gave 10 ½ sovereign of gold thalli chain to the second respondent and after two months, he went to Singapore. It was the second respondent, who refused to live with A1 and she returned back to India. She failed to do the duty of the wife. It was the second respondent, who took away Rs.1,20,000/- from the ATM card of A1 and she gave the amount to her father without informing A1.

4.On 02.09.2017, the second respondent and her father came to the house of the first petitioner and they attacked the second petitioner and threatened her to vacate the house. They chased the second petitioner out of the house. The second petitioner lodged a complaint before the Emaneshwaram Police Station and on enquiry, the second respondent clearly gave a statement that she is not willing to live with her husband. She went to her parents' house. The efforts taken by A1 for reunion ended in vain. A female child was born on 25.09.2017 but the same was not informed to the family members of the petitioners or A1. On knowing the birth of the



Crl.O.P(MD).No.14984 of 2020

granddaughter, the petitioners went to the hospital but the second respondent did not allow them to see their granddaughter. Even now the petitioners are taking effective steps for reunion.

5.Since the second respondent was not willing to lead a matrimonial live with A1, A1 decided to file a divorce petition in H.M.O.P.No.83 of 2019 before the Sub Court, Paramakudi on 31.07.2019. On receiving the summon from the Court, the second respondent filed a transfer petition in Tr.C.M.P.No. 844 of 2019 on 22.01.2020 and the case was transferred to the IVth Additional Family Court, Chennai. Thereafter, the petitioners came to understand that the second respondent lodged a complaint before the first respondent and a FIR was registered after a lapse of three years. The second respondent has lodged this complaint with a bad intention after a lapse of 16 months, after the filing of the divorce petition and the FIR is to be quashed.

6.On the side of the petitioners, it is stated that the second respondent went out of the matrimonial house, out of her own decision and after a lapse of three years, she has lodged the present complaint. The petitioners 1 and 2 are senior citizens. Even without considering the age and ailment, the second respondent has lodged a false complaint against the petitioners. The third



Crl.O.P(MD).No.14984 of 2020

petitioner got married in the year 2000 and that she is staying with her husband at Sivagangai and she is no way connected with the case. The fourth petitioner got married and she is living with her husband in Sivagangai district from the year 2007. The FIR was registered on 24.11.2020 but the FIR was received by the learned Judicial Magistrate only on 30.11.2020. The delay of six days was not explained. As per the dictum of the Hon'ble Supreme Court in Lalitha Kumari case, the police ought to have conducted a preliminary enquiry before ascertaining the genuinity of the complaint.

7.On the side of the prosecution, it is stated that the marriage took place on 23.06.2016. The petitioners are A2 to A5 and they are the inlaws of the defacto complainant. A1 is the father in law, A2 is the mother in law, A3 and A4 are sisters in law. All the petitioners demanded 50 sovereign of gold and five cents of land as additional dowry. All the petitioners attacked the defacto complainant with broom stick. The matter requires the detailed trial.

8.It is seen that A1 filed a petition for divorce in H.M.O.P.No.83 of 2019 on 31.07.2019. On 22.01.2020, the second respondent filed a transfer O.P. before this Court in Tr.C.M.P.No.844 of 2019 and the same was allowed. The divorce case was transferred to the file of the IVth Additional Family



Crl.O.P(MD).No.14984 of 2020

Court, Chennai. Only after the filing of the divorce case and 10 months after the case was transferred to the file of the IVth Additional Family Court, Chennai, the defacto complainant has come forward to lodge the present complaint and the FIR was registered on 24.11.2020. It is seen that the age of the first petitioner is 69 years and the second petitioner is 64 years. Even in the FIR, the residents of the petitioners 3 and 4 was mentioned as Puthu nagar, Paramakudi. So it is clear that the petitioners 3 and 4 are not residing along with the first petitioner.

9.Considering the fact that the criminal proceedings are taken after the filing of the divorce petition by A1, considering the age of the petitioners 1 and 2, considering that the petitioners 3 and 4 are not residing along with the petitioners 1 and 2 and considering the nature of allegation, it is decided that the petition is liable to be allowed. Hence, this Criminal Original Petition is **allowed** and the case against the petitioners in Crime No.29 of 2020 is hereby quashed. Consequently, connected miscellaneous petition is closed.

02.06.2023

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



WEB COPY



CrI.O.P(MD).No.14984 of 2020

To

- 1.The Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P(MD).No.14984 of 2020

R. THARANI,J.

Mrn

Crl.O.P(MD).No.14984 of 2020

02.06.2023