



Crl.O.P(MD).No.15246 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.15246 of 2020

and

Crl.M.P.(MD)No.7357 of 2020

1.K.Subaiya
2.Panjavarnam

...Petitioners

Vs

1.The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.
(Crime No.35 of 2018)
2.S.Ambika

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in pertaining to C.C.No.540 of 2018 on the file of the learned Additional Mahila Court, Nagercoil and quash the same as against this petitioners.

For Petitioners	: Mr.S.Sureshkumar
For Respondents 1 and 2	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: No Appearance

ORDER

This petition is filed to quash the charge sheet in C.C.No.540 of 2018 on the file of the Additional Mahila Court, Nagercoil.



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2. According to the petitioners, the petitioners are in-laws of the second respondent. The second respondent/defacto complainant lodged a complaint before the first respondent. Based on the complaint, the first respondent police registered a FIR in Crime No.35 of 2018 for the offence under Sections 498A, 406 of IPC and Sections 4 and 6 of Dowry Prohibition Act.

3. According to the petitioners, the second respondent married A1 on 11.11.2012. At time of marriage, the parents of the second respondent presented cash and other household articles and jewels as dowry. Thereafter, A1 lost money in share market in online gambling. Due to that, A1 borrowed money for higher interest from so many persons and could not repay the money. A1 tortured the second respondent to get money from her parents. Thereafter, the parents of the second respondent had given a sum of Rs. 14,00,000/- to A1 on different dates. In addition, the second respondent recovered the jewels from pawn shop, which was pledged by A1 without the knowledge of the second respondent. When the second respondent asked about the same, A1 beaten the second respondent. At the instigation of these petitioners, A1 demanded money from the second respondent and thereby, she lodged a complaint. Thereafter, the case was investigated by the first respondent and he filed final report. Based on the final report, the Additional



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Mahila Court had taken cognizance in C.C.No.540 of 2018. As far as these petitioners are concerned, they are in-laws. There is not specific overt act against these petitioners. In order to rope them in criminal case, the second respondent has given false complaint and the same was not properly investigated by the Investigating Officer and thereby, the case in C.C.No540 of 2018 on the file of the Additional Mahila Court, Nagercoil is liable to be quashed.

4.No counter was filed on the side of the respondents.

5.The learned counsel appearing for the petitioners would contend that the second respondent has given complaint before the first respondent and based on the complaint, the first respondent registered a FIR as against these petitioners and another for the offence under Sections 498A and 406 of IPC and Sections 4 and 6 of Dowry Prohibition Act. The first respondent investigated the case and filed final report. Based on the final report, the Additional Mahila Court had taken cognizance in C.C.No.540 of 2018. These petitioners are in laws of the second respondent and all the allegations are against A1, who is son of the petitioners. As per the direction of this Court, the case against the main accused A1 was split up and the trial was conducted and after full trial, the main accused A1 was acquitted by the trial Court. The



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main allegations are all as against A1 and even according to the final report, these petitioners instigated the A1 to commit such offence. The main accused himself was acquitted by the trial Court. Therefore, the pending charge sheet against the petitioners is abuse of process of law. Even in the judgment passed in C.C.No.7 of 2021 before the Additional Mahila Court, there is no evidence to show that these petitioners have instructed A1 to commit such offence. Therefore, the pending charge sheet is liable to be quashed.

6.The learned Government Advocate appearing for the first respondent contended that already as per the order of this Court, the case against A1 was splitting and trial was conducted before the trial Court and the trial Court acquitted the A1. As per the charge sheet, there are *prima facie* materials available as against these petitioners. These petitioners instigated A1 to commit such offence. Hence, the petitioners have to face trial. This petition is liable to be dismissed.

7.This Court heard both sides and perused the materials available on records.

8.On perusal of records, it is observed that there is no dispute with regard to relationship of parties and the second respondent is none other than



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the daughter in law of the petitioners and she gave a complaint as against her husband and in-laws. Based on the complaint, FIR has been registered and thereafter, filed final report. Based on the final report, the Additional Mahila Court had taken cognizance in C.C.No.540 of 2018. As per direction of this Court, the case against A1 was already split up and trial was commenced and after full trial, the case was acquitted as against A1. Even according to the FIR and final report, these petitioners instigated A1 to commit offence. The main accused A1 was acquitted by the trial Court. These petitioners who are A2 and A3 who alleged to have instigated A1. Even according to final report as against these petitioners, no specific allegation and allegations are vague. Hence, the petitioners need not face the trial without any materials. Thereby, it is appropriate to allow this petition.

9. Therefore, as discussed above, this Criminal Original Petition is allowed and the pending charge sheet in C.C.No.540 of 2018 on the file of the Additional Mahila Court, Nagercoil is quashed. Consequently, connected miscellaneous petition is closed.

15.09.2023

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

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P.DHANABAL, J.

Mrn

To

1.The Judge, Additional Mahila Court, Nagercoil.

2.The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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