



WP (MD) No. 18635 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.09.2023

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.18635 of 2021

C.Sivaraja

.. Petitioner

Versus

1.The Superintendent of Police,
Dindigul District,
Dindigul.

2.The Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.

3.Reya, D/o.Elavarasan

4.Elavarasan, S/o.Palaniyandi Thevar

5.Jeyakodi, W/o.Elavarasan

6.Girinath, S/o.Elavarasan

7.Arulmozhi Thevan, S/o.Karuppathevar

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to take action against the respondents 3 to 7 herein for threatening and cheating the petitioner and his parents, a sum of Rs.5,00,000/- and 10 ½ sovereigns of gold chain and further direct the second respondent to recover the same from the



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respondents 3 to 7 herein and hand over to the petitioner, based on his complaint, dated 26.04.2021.

For Petitioner : Mr.G.Gomathi Shankar
For R1 and R2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For R3 to R6 : Mr.S.Sivaprakash

ORDER

The petitioner has filed this Writ Petition seeking to take action against the respondents 3 to 7, who are his wife and in-laws, for threatening and cheating him and his parents, a sum of Rs.5,00,000/- and 10 ½ sovereigns of gold chain and to recover the same from them, based on his complaint, dated 26.04.2021.

2. The contention of the learned counsel for the petitioner is that, the marriage between the petitioner and the third respondent was solemnized on 25.01.2021 at Nilakottai. The marriage was initiated by his wife's family. Prior to the marriage, there were frequent meetings between them. During one such meeting, the third respondent informed that her parents were unable to arrange for money to celebrate the marriage function and hence, requested the petitioner to assist by giving Rs.5,00,000/-, which was received by the respondents 5 and 6 on 02.12.2020. After receipt of Rs.5,00,000/-, the marriage was solemnized on 25.01.2021. At that time, the petitioner's father



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given 10 sovereigns of gold chain and ½ sovereign of Mangalsutra to the third respondent and the petitioner's father incurred an expenditure of Rs.3,62,000/-.

Three days after the marriage, the third respondent went to her house for writing B.P.Ed. Examination and informed that she would return back within few days. On the contrary, the third respondent and her family members lodged a false complaint against the petitioner suppressing the real facts. Hence, the petitioner sent a petition, regarding the false complaint lodged by the third respondent.

3. The learned Additional Public Prosecutor submitted that on the complaint of the third respondent as well as the petitioner, cases in Crime Nos. 10 of 2022 and 16 of 2022 had been registered against both of them and their family members. Now, investigation has been completed. Crime No.10 of 2022 registered against the petitioner and four of his family members for the offences under Sections 498(A), 406 and 506(ii) I.P.C., is taken on file as C.C.No.597 of 2022, by the learned Judicial Magistrate, Nilakottai. Crime No. 16 of 2022 registered for the offences under Sections 406, 420 and 506(i) I.P.C. against the respondents 3 to 7 is taken on file as C.C.No.402 of 2022 by the learned Judicial Magistrate, Nilakottai. Both the cases are pending trial before the learned Judicial Magistrate, Nilakottai. The petitioner has given complaint prior to registration of the F.I.Rs. and hence, he prayed for dismissal of the Writ Petition.



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4. The learned counsel for the respondents 3 to 6 submitted that in defensive for the complaint given by the third respondent, the petitioner had filed this Writ Petition, by giving a false complaint. He further submitted that on the complaint of the third respondent, a case in Crime No.10 of 2022 has been registered and after investigation, charge sheet filed in C.C.No.597 of 2022 against the petitioner and four of his family members for the offences under Sections 498(A), 406 and 506(i) I.P.C. He fairly submitted that a case against the respondents 3 to 7 initiated at the instance of the petitioner, is pending trial before the learned Judicial Magistrate, Nilakottai, in C.C.No.402 of 2022. He further submitted that the third respondent filed a petition in H.M.O.P.No.110 of 2022 for divorce under Section 13(1)(a) of the Hindu Marriage Act, 1955 before the Principal Sub Court, Dindigul and the same is pending. The above said petition has been filed prior to registration of F.I.R. in anticipation of criminal case registered against him as defensive and hence, he prayed for dismissal of the Writ Petition.

5. Considering the above said submissions and on perusal of the materials, this Court finds that two cases are pending against the petitioner and his family members and the respondent and her family members before the Judicial Magistrate Court, Nilakottai, in C.C.Nos.402 and 597 of 2022. Apart from the above, H.M.O.P.No.110 of 2022 filed by the third respondent for



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divorce, is pending before the Principal Sub Court, Dindigul. This Writ Petition has been filed seeking a direction to the second respondent to take action against the respondents 3 to 7 for threatening and cheating the petitioner and his parents a sum of Rs.5,00,000/- and 10 ½ sovereigns of gold chain and further direction to the second respondent to recover the same from them and hand over it to the petitioner, based on his complaint dated 26.04.2021, which is much prior to the registration of the criminal cases against both the groups.

6. In view of the above, this Writ Petition is dismissed, leaving it open to the parties to put forth their contentions before the Trial Court in the pending cases. No costs.

Index : Yes/No
Internet : Yes
smn2

11.09.2023

To

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

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M.NIRMAL KUMAR, J.

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