



Crl.O.P(MD).No.15963 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.15963 of 2020

and

Crl.M.P.(MD)Nos.7879 and 7881 of 2020

- 1.Hanif Ibrahim Minhalla
- 2.Noor Mohamed Meera
- 3.Sitty Marjan Jahannara
- 4.Habira Meharaj Minna

...Petitioners

Vs

- 1.State Rep. by the Inspector of Police,
All Women Police Station,
Karaikudi District.
(In Crime No.2 of 2019)
- 2.Aabitha Banu

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records and quash the proceedings pending in C.C.No.12 of 2020 on the file of the learned Judicial Magistrate, Karaikudi.

For Petitioners

: Mr.A.E.Chelliah Senior Counsel
Mr.C.Sai Fuliah

For 1st Respondent

: Mr.M.Sakthi Kumar
Government Advocate

ORDER

This petition is filed to quash charge sheet in C.C.No.12 of 2020 on the



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file of the learned Judicial Magistrate, Karaikudi.

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2. According to the petitioners, the second respondent is wife of the first petitioner and the petitioners 2 and 3 are parents of the first petitioner, the fourth petitioner is sister of the first petitioner. The second respondent has given a false complaint against the petitioners. The fourth petitioner is residing at Sharja, UAE. The second respondent married the first petitioner on 20.12.2015 and thereafter, female child was born to them. Due to difference of opinion, the second respondent stayed in parental house and then after nine months, they again re-united. The petitioners 2 and 3 were living on their home town at Thirupattur. The second respondent were lived at Chennai only for a period of eight months. The fourth petitioner was married in the year 2014 and she is in abroad. The first petitioner and second respondent lived at Chennai only for eight months and thereafter, again due to misunderstanding, the second respondent went to her parental home at Karaikudi and thereafter, Jamath intervened in this matter and no amicable solution was reached for reunion.

3. Thereafter, the father of the second respondent on 08.11.2018 approached the Superintendent of Police, Sivagangai District and submitted a petition to take steps for reunion of his daughter and son-in-law. The said



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petition was forwarded to All Women Police Station, Karaikudi through CSR dated 09.11.2018 and the father of the second respondent and the second respondent participated in the enquiry. On 30.01.2019, All Women Police Station, Karaikudi concluded petition enquiry stating that since after repeated counselling given to the parties, the first petitioner refused to continue matrimonial life with the second respondent. On the receipt of complaint on 30.01.2019, the first respondent registered FIR in Crime No.2 of 2019 for the offence under Sections 498A, 406, 506(i) of IPC. Even as per the complaint dated 30.01.2019 given by the second respondent, the allegations made in the FIR and charge sheet are vague and omnibus and bald in nature and not distinct and not attract Sections 498A, 406, 506(i) of IPC.

4.In fact the petition dated 08.11.2018 was given by the father of the second respondent for reunion and no any allegations made against these petitioners. While the enquiry is pending, the complaint was given by the second respondent and registered FIR and specific allegations were not mentioned in the petition. The FIR and the final report filed by the first respondent does not disclose any allegation with regard to cruelty and thereby, Section 498A of IPC not at all attract. There is no averments regarding the date on which the request for return of jewels was made by the second respondent and the same was refused by the petitioners. The jewels belonging



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to the second respondent was kept in the bank safety locker under the facility of joint operation availed by both the first petitioner and the second respondent. Having two independent keys possessing each key of their own to access the jewels, the allegations that the jewels taken by the third petitioner, mother-in-law, there is absolutely no averment either in the complaint, charge sheet or the statement of the witnesses that the third petitioner mother-in-law dishonestly misappropriated the jewels or she converted the jewels to her own use. Even for sake of arguments, mere failure to return the property does not constitute an offence of criminal breach of trust under Section 405 of IPC. The allegation in respect of criminal intimidation are vague and bald in nature and not distinct and not specific. Therefore, the charge sheet as against the petitioners is abuse of process of law and liable to be quashed.

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

6.The learned counsel appearing for the petitioners would contend that the first petitioner is the husband of the second respondent, the petitioners 2 and 3 are parents of the first petitioner and fourth petitioner is sister of the first petitioner. The fourth petitioner is not residing in India and she is a resident of Sharja, UAE. Only to harass the petitioners, this false complaint has been lodged. In fact due to misunderstanding between the first petitioner



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and the second respondent, the second respondent left from the matrimonial home and the first petitioner and the second respondent were living at Chennai and the petitioners 2 and 3 were living at their home at Thirupattur. Due to misunderstanding between the first petitioner and the second respondent, the second respondent left from the matrimonial home and residing at her parents.

7.The father of the second respondent has given a complaint before the Superintendent of Police on 08.11.2018 and the same was forwarded to All Women Police Station, Karaikudi. During the enquiry, the first petitioner was not in a position to take the second respondent to his home and no scope for reunion. Immediately on 30.01.2019, the second respondent lodged a complaint when the said matter was pending enquiry, filed this complaint and registered this case. Even in this previous complaint given by the father of the respondent, there is no allegation with respect of demand of dowry and alleged cruelty caused by the petitioners. The complaint is only for reunion. The first petitioner categorically stated that he is unable to live with her false averments. Even according to the complaint, no specific allegations against the petitioners, the allegations are vague, bald and omnibus allegations. In order to attract the provisions of Sections 498A of IPC, there is no any materials to constitute the offence. Even as per FIR, there is no averments in



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the complaint that the second respondent demanded to return back the jewels and the second respondent refused to return the jewels which were kept in the safety lock in which the second respondent also have separate key to open the safety locker. Only to harass the petitioners, this complaint has been lodged. Hence, the charge sheet is liable to be quashed.

8.The learned counsel appearing for the petitioners relied upon the following judgments:-

(i)Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors. In Criminal Appeal No.195 of 2022.

(ii)Preeti Gupta and another v. State of Jharkhand and another in (2010) 7 Supreme Court Cases 667.

9.The learned Government Advocate appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent has registered FIR in Crime No.2 of 2019. Thereafter, investigated the case and filed final report. Based on final report, the learned Judicial magistrate has taken cognizance and the same is pending in C.C.No. 12 of 2020. There are *prima facie* materials available as against this petitioners. At this stage, the petitioners have to face the trial. Thereby, the petition is liable to be dismissed.



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10.The learned counsel appearing for the second respondent contended that due to matrimonial dispute, the second respondent has given complaint to the first respondent. All the petitioners caused cruelty on the second respondent and also refused to return back the jewels of the second respondent. Further all the petitioners caused criminally intimidation. Thereby, the second respondent had lodged the complaint before the first respondent. Based on the first respondent, the first respondent registered a case for the offences under Sections 498A, 406, 506(i) of IPC. Thereafter, the first respondent thoroughly investigated the case and after investigation, *prima facie* materials available as against these petitioners. Thereby, filed final report. Based on the final report, the learned Judicial Magistrate, Karaikudi has taken cognizance in C.C.No.12 of 2020. Therefore, at this stage, the petitioners have to face the trial and thereby, the petition is liable to be dismissed.

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

12.On perusal of the records, it is observed that there is a family dispute



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between the first petitioner and second respondent. Already the father of the second respondent gave a complaint before the Superintendent of Police, Sivagangai District and the same was forwarded to the All Woman Police Station, Karaikudi and the same was enquired by the All Woman Police, Karaikudi. While pending enquiry, this complaint was given by the second respondent on 30.01.2019 and based on the complaint, the police have registered FIR in Crime No.2 of 2019 and thereafter, investigated the case and filed final report and the same was taken on file in C.C.No.12 of 2020.

13.The petitioners contention is that the petitioners have not committed any offence as alleged in the FIR and charge sheet. In the previous complaint given by the father of the second respondent, the defacto complainant did not reveal the cruelty caused by the petitioners. Afterthought the second respondent had given this false complaint only to harass the petitioners.

14.According to the second respondent, the petitioners caused cruelty and also refused to return the jewels, which are presented during the marriage. It is admitted fact that already the father of the defacto complainant had given a complaint before the Superintendent of Police and the same was referred to All Women Police Station, Karaikudi and All Women Police also enquired the matter. While pending enquiry, this complaint dated 30.01.2019 was given by



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the second respondent. In the earlier complaint dated 08.11.2018, there is no whisper about the cruelty and the refusal of return of the jewels of the second respondent. Further the allegations levelled by the second respondent are not specific and they are vague, bald, general and omnibus allegations.

15.Further according to petitioners, the fourth petitioner is residing in abroad and she not at all present in India on the date of occurrence. Further the second respondent also has included the name of the fourth petitioner also. The first respondent also without conducting proper investigation included the name of the fourth respondent as absconding accused in the charge sheet. The fourth petitioner has produced the copy of the pass port and on perusal of the same, the fourth petitioner is not present on the date of occurrence and she was in abroad. While so without conducting proper investigation, the first respondent has filed charge sheet against the fourth petitioner. Further allegations made in the FIR is that due to the instigation of the fourth petitioner, A1 refused to live with her and all the accused abused her and scolded her and they treated her as servant maid and also threatened to kill her. These are the allegations and these allegations are vague and bald ones.

16.In this context, the learned counsel appearing for the petitioners



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relied upon the decision of the Hon'ble Supreme Court in the case of

Kahkashan Kausar @ Sonam and ors. v. State of Bihar and Ors. reported in

2022 Livelaw (SC) 141, wherein the Hon'ble Supreme Court in para no.19

held as follows:-

“19.Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e., none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

17.On careful perusal of the said judgment, it is clear that based on the general and omnibus allegations do not warrant prosecution. In the case on



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and also, the second respondent lodged a complaint as against her husband and in laws with vague, general and bald allegations that too as against the fourth petitioner who is in aboard on the date of occurrence. Hence, the aforesaid judgment will squarely applicable to present facts of the case.

18.In view of the above judgment and as discussed supra, this Criminal Original Petition is allowed and the proceedings as against the petitioners in C.C.No.12 of 2020, on the file of the learned Judicial Magistrate, Karaikudi is hereby quashed. Consequently, connected miscellaneous petitions are closed.

25.09.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Judicial Magistrate, Karaikudi.

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

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



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P. DHANABAL,J.

Mrn

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