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Crl.O.P.(MD)No.13937 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.08.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.13937 of 2023
and Crl.M.P(MD).Nos.10897 and 10900 of 2023

1.Saravanan

2.P.Pasupathi

3.Shobana Devi

4.M.Duraipandi

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
All Women Police Station,
Thiruparankundaram,
Madurai District.

S.Parmeela Devi (Died)

2.Manickam

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to C.C.No.611 of 2014 on the file of the Judicial Magistrate, Additional Mahila Court, Madurai and quash the same as against the petitioners concerned.

For Petitioners : Mr.A.R.Kannappan

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



ORDER

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This Criminal Original Petition is filed seeking quashment of C.C.No.611 of 2014 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai, which is registered against the petitioners and the other accused for the offence punishable under Sections 498(A), 406 IPC r/w Section 4 of Dowry Prohibition Act.

2.The petitioners are the accused Nos.1, 3 4 and 6 in C.C.No.611 of 2014 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai, which was registered on a complaint given by the defacto complainant, for the offences punishable under Sections 498(A), 406 IPC r/w Section 4 of Dowry Prohibition Act.

3. According to the prosecution, the marriage between the defacto complainant and the first accused was solemnized on 07.06.2004 and the accused persons demanded dowry from the defacto complainant and threatened her with dire consequences. Hence, the FIR has been registered.



4. It is submitted by the learned counsel appearing for the petitioners that prior to filing of the charge sheet, the Social Welfare Officer has reported to the Police that the allegation made against the accused that they have committed the offence under the Dowry Prohibition Act, has not been proved. Even then, the petitioners were charge sheeted for the offence punishable under Sections 498(A), 406 IPC r/w Section 4 of Dowry Prohibition Act.

5. It is submitted by the learned Additional Public Prosecutor appearing for the official respondent that the defacto complainant, who was examined by the Investigating Officer, has deposed against the petitioners and therefore, there are clear overt acts against all the accused and thereby, the trial requires to be conducted.

6. On going through the charge sheet including the statements under Section 161 Cr.P.C., it is clear that there are overt acts against the petitioners. The Hon'ble Supreme Court has laid down the guidelines for exercising of inherent power under Section 482 of Cr.P.C. for quashing the criminal proceeding in the case of *State of Haryana v. Bhajanlal* reported in *1992 SCC (Cri) 426*, which reads as follows:-



"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute



a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7.It is to be examined as to whether the facts of the case will fall in any one of the circumstances as held by the Hon'ble Apex Court to consider whether the case against the petitioners can be quashed.



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8. It is not a case, where the petitioners are seeking quashment of the charge sheet on the ground that there is a statutory embargo in continuation of the proceedings. On going through the charge sheet, it is clear that the allegations levelled against the petitioners are not vague and that the statements of the witnesses are clearly against the petitioners. It is submitted further that the witnesses examined by the prosecution have given the false statements under 161(3) Cr.P.C.

9. On going through the contention of the petitioners and on considering the defense put forth by the petitioners, it cannot be decided at this stage as to which one of the versions is correct. Unless, the trial is conducted, the truth or otherwise of the statement of the witnesses cannot be appreciated. Therefore, it is a fit case, where the case has to be referred to the trial Court as there is *prima facie* material against the petitioners.

10. Accordingly, this Criminal Original Petition is disposed of directing the trial Court to dispose of CC.No.611 of 2014 as quickly as possible. Since the petitioners 2 and 4 are senior citizens, their personal appearance before the trial Court is dispensed with. However, the trial Court is at liberty to direct all the accused to be present for answering the



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charges, 313 examination and for any such purposes at any stage of the case for smooth progression of the trial. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/No
Internet : Yes/No
ssb

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To

1. Judicial Magistrate, Additional Mahila Court, Madurai,
2. The Inspector of Police,
All Women Police Station,
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DR.D.NAGARJUN. J.

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