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Crl.O.P.(MD)No.15178 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.08.2023**

CORAM:

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

Crl.O.P.(MD) No.15178 of 2023

and

Crl.M.P(MD)Nos.12030 and 12033 of 2023

- 1.Visaka Bala Saraswathy
- 2.Yuga Shanmuga Priya
- 3.Malini

... Petitioners/
Accused Nos.2 to 4

Vs.

- 1.The State represented by
The Inspector of Police,
All Women Police Station,
Ottanchathiram,
Dindigul District.
(Crime No.9 of 2021)

...Respondent/
Complainant

- 2.Saranya

... Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records connected with C.C.No.84 of 2023 on the file of the learned Judicial Magistrate, Ottanchathiram, Dindigul District and quash the same as illegal.

For Petitioners : Mr.R.Rajaselvan

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



ORDER

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This petition is filed seeking quashment of Charge Sheet in C.C.No.84 of 2023 pending on the file of the learned Judicial Magistrate, Ottanchathiram, Dindigul District.

2. It is submitted by the learned counsel for the petitioners that the first petitioner is the mother, second petitioner is the sister, third petitioner is the relative of Accused No.1. The defacto complainant is the wife of accused No.1 and daughter-in-law of the petitioner No.1. The wedding between the defacto complainant and the accused No.1 allegedly took place on 10.02.2016. Subsequently, dispute arose between them, based on which, the accused No.1 filed H.M.O.P. No.46 of 2021 on the file of Family Court, Dindigul, seeking dissolution of marriage, which is still pending. On the complaint given by the defacto complainant to the respondent No.1 Police, they have registered a case in Crime No.19 of 2021 and filed Charge Sheet in C.C.No.84 of 2023, cognizance of which was taken against the petitioners and accused No.1 for the offences under Sections 498(A), 506(i) and 406 IPC r/w. Section 4 of Dowry Prohibition Act, 1961 that the defacto complainant has foisted a false case against the petitioners.



3. The petitioners and defacto complainant have not raised any previous proceedings about the alleged harassment and even if the contention of the Charge Sheet are considered as no offence is made out, the learned Additional Public Prosecutor on the other hands submits that the defacto complainant has stated that the recorded statement of defacto complainant undergone Section 61 Cr.P.C, would run around three pages, wherein she has given detail account of harassment against all the persons including these petitioners. It is also submits that the statement of other witnesses also supports the defacto complainant. Therefore, this is not a case.

4. Considering the submissions made by both sides, there is material overtact against all the petitioners in respect of the offence allegedly committed. This is not a case, where it can be decided summarily under 482 of Cr.P.C. The petitioners have raised all the issues, which are factually negated by the defacto complainant and others. Since the application is filed under Section 482 Cr.P.C., this Court cannot conduct any trial in order to give finding as to whether the defacto complainant's statement is incorrect by accepting the version of petitioners. The petitioners are expected to go over to the trial Court and face the trial, answer the charges and prove that they are innocent. Until



then, this submission of the petitioners cannot be considered.

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5. During the courses of hearing, the learned counsel appearing for the petitioners has submitted that in case, the presence of the petitioners is dispensed with before the trial Court, that is enough for the time being.

6. Considering the circumstances of this case, this Criminal Original Petition is disposed of, directing the learned Judicial Magistrate, Ottanchathiram, Dindigul District, to expedite the trial and dispose of C.C.No.84 of 2023 as quickly as possible. Further, the presence of the petitioners is dispensed with, after charges are framed. However, the learned Judicial Magistrate, Ottanchathiram, Dindigul District, is at liberty to direct the petitioners to be present at any time to answer the charges and examination under Section 313 Cr.P.C., or for any other purpose and for smooth progress of the case. Consequently, connected Miscellaneous Petitions are closed.

30.08.2023

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

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To

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



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DR.D.NAGARJUN. J.

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