



Crl.O.P(MD).No.15868 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 20.07.2023

Delivered On : 02.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.15868 of 2019

1.Ganesan
2.Chellammal
3.Jeyamani
4.Sundari @ Yesothai

...Petitioners

Vs

1.The Inspector of Police,
Viruveedu Police Station,
Nilakottai Taluk,
Dindigul District.
2.Karuppayee

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the proceeding C.C.No.27 of 2019 on the file of the learned Judicial Magistrate, Nilakottai and to quash the same.

For Petitioners	: Mr.J.Senthil Kumaraiah
For 1 st Respondent	: 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.27 of 2019,



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pending on the file of the learned Judicial Magistrate, Nilakottai.

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2. According to the petitioners, they were arrayed as A2 to A5 in the aforesaid case. According to the prosecution, the second respondent was married to A1 and after marriage, they lived together at Tiruppur for a period of one year. Since no children was born to them, A1 along with other petitioners abused the second respondent with mocked word so the second respondent was living at her mother home and there is no contact between A1 and second respondent for nearly one year and thereafter, A1 had filed the Divorce O.P. before the District Court, Dindigul. On 17.09.2018, when the second respondent was waiting for bus after attending the hearing at about 05.30 p.m., all the accused came there and abused the second respondent with filthy language and also assaulted her. As a result of which, on 19.09.2018, at about 09.00 a.m., the second respondent attempted suicide and admitted in the hospital. Thereby, on the complaint of the second respondent, the first respondent had registered FIR in Crime No.129 of 2018 under Sections 147, 294(b), 323, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act. Thereafter, the first respondent filed a charge sheet in C.C.No.27 of 2018 before the learned Judicial Magistrate, Nilakottai by altering Sections 147, 294(b), 323, 324, 498A and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act.



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3. In fact no such occurrence was happened as alleged in FIR and in the charge sheet. Due to mental cruelty, A1 had filed divorce petition in H.M.O.P.No.27 of 2018 at Dindigul and in order to defame A1 and the petitioners, the second respondent has given false complaint against the petitioners. On the date of alleged occurrence, the petitioners were not present at the place of occurrence and these petitioners were falsely implicated in the case. The fourth petitioner was not at all the blood relative and no way was connected with the accused person. Therefore, the charge sheet against the petitioners are liable to be quashed.

4. No counter was filed by the respondent.

5. The learned counsel appearing for the petitioners has argued that the petitioners are in laws of relatives of the defacto complainant and there was a dispute pending between the defacto complainant and her husband. The husband of the defacto complainant filed Divorce Petition before the Sub Court, Dindigul in H.M.O.P.No.27 of 2018. In order to harass the petitioners, the present complaint has been lodged as against these petitioners. In fact the petitioners have not committed any offence as alleged in the FIR and charge sheet. The second respondent had given false complaint before the first



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respondent and the first respondent without conducting proper investigation mechanically filed a final report and the same is liable to be quashed.

6.The learned Government Advocate appearing for the respondent has argued that the second respondent has given a complaint before the first respondent and based on the complaint, the first respondent has investigated the case by examining the witness and collecting documents and thereafter, filed a report before the learned Judicial Magistrate, Nilakottai. As per final report, there are *prima facie* materials available to proceed against the petitioners and the trial Court also taken the case on file in C.C.No.27 of 2019. Therefore, at this stage, the petition is liable to be dismissed.

7.Heard both sides and perused the materials available on records.

8.On perusal of the records, it is observed that the second respondent has given a complaint before the first respondent and the first respondent registered FIR for the offences Sections 147, 294(b), 323, 506(i) of IPC and Section 4 of Tamil nadu Prohibition of Harassment of Woman Act. Thereafter, the first respondent investigated the case and filed a final report as against the petitioners and others.



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9. According to the final report, there are *prima facie* materials available to proceed with the case and after elaborate investigation, only the first respondent has filed final report and the trial Court also taken cognizance in C.C.No.27 of 2019. If at all no *prima facie* material available as against the petitioners, the petitioners are at liberty to approach the trial Court by way of filing discharge petition. After filing final report, without *prima facie* and proper grounds, this Court cannot invoke provision under Section 482 of Cr.P.C., to quash the charge sheet.

10. The learned counsel appearing for the petitioner relied on the following judgments of this Court in:-

(i) ***N.Jagadeeswaran Vs The Inspector of Police and another*** in Crl.O.P.(MD)No.15089 of 2018.

(ii) ***Sivakami Vs The State and another*** in Crl.O.P.(MD)No.33939 of 2019.

(iii) ***Anbarasi and another Vs State and another*** reported in 2022 (3) MWN (Cr.) 474.

11. On careful reading of the said judgments, they will not be applicable to the present facts of the case, because in this case, there are no sufficient grounds to quash the charge sheet.



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P. DHANABAL,J.

Mrn

12.In view of the guidelines issued by the Hon'ble Supreme Court in the case of *Neeharika Infrastructure Private Limited*, this Court is declined to quash the petition at this stage and this petition is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed.

02.08.2023

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

To

1.The Judicial Magistrate, Nilakottai.

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