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CRL O.P. No.4529 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL O.P. No.4529 of 2022
and Crl. M.P. Nos.2323 and 2324 of 2022

1. Sriram S/o. Mohan
 2. Vijayalakshmi W/o. Mohan ... Petitioners / Accused 1 and 3
- Vs.

1. The State represented by:
The Inspector of Police,
All Women Police Station,
Cuddalore District.

2. Pramila. ... Respondents / Complainants

PRAYER :- This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in respect of Criminal case in C.C. No.11 of 2015 on the file of the Judicial Magistrate, Additional Mahila Court, Cuddalore and to quash the same.

For petitioners : Mr. S. Arivazhagan
For Respondents : Ms. G.V. Kasthuri,
Additional Public Prosecutor
[for R1]
Mr. R. Sankarasubbu [for R2]

ORDER

This Criminal original petition has been filed to quash the



CRL O.P. No.4529 of 2022

proceedings in C.C. No.11 of 2015 on the file of the Judicial Magistrate,
Additional Mahila Court, Cuddalore.

2. The case of the prosecution is that the defacto complainant is the wife of the 1st petitioner and the daughter-in-law of the 2nd petitioner. The marriage between the 1st petitioner and the defacto complainant was solemnized on 14.12.2011. At the time of marriage, 10 sovereigns, a two wheeler, Rs.40,000/- cash and household articles were presented as sreedhana articles. Thereafter, all the accused harassed the defacto complainant to bring dowry of Rs.2 lakhs and 10 sovereigns of gold jewels and caused cruelty and on 23.06.2013, the 1st petitioner slapped on her cheek, 2nd accused / father-in-law of the defacto complainant, pulled her saree, 2nd petitioner / mother-in-law pulled her hair and pushed her down and the 4th accused / aunt of the 1st petitioner kicked on her stomach and the 1st petitioner locked her in a room and hence the complaint was lodged by the defacto complainant as against the petitioners and other accused. Based on the complaint, the 1st respondent police have registered the case in Cr. No.11 of 2013 under



CRL O.P. No.4529 of 2022

Sections 498(A), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The case was investigated and final report was filed. Based on the final report, the learned Judicial Magistrate, Additional Mahila Court, Cuddalore has taken cognizance in C.C. No.11 of 2015. Now, the petitioners have challenged the said pending proceedings.

3. The learned counsel appearing for the petitioners would contend that 1st petitioner is the husband of the defacto complainant and the 2nd petitioner is the mother-in-law of the defacto complainant / 2nd respondent herein and the defacto complainant lodged a false complaint alleging that these petitioners along with other accused have demanded dowry, assaulted and caused criminal intimidation. In fact, there is a family dispute pending between the parties and the 2nd respondent / defacto complainant without any valid reasons left from the matrimonial home and the 2nd respondent without any valid reasons used to pick up quarrel on simple matters and insisted him to set up a separate matrimonial home. Thereafter, the 1st petitioner also had set up a



CRL O.P. No.4529 of 2022

separate matrimonial home and started an Ice cream business. The 2nd respondent took the entire money and gave it to her mother and again, she insisted him to bring Rs.3 lakhs to purchase land at Cuddalore and the same was refused by the 1st petitioner. The 2nd respondent caused cruelty to the 1st petitioner. The 2nd respondent lodged a false complaint before the 1st respondent police. The 1st petitioner and other accused have participated in the enquiry and during the enquiry, it was found that there is no case made out as against these petitioners and other accused. Thereafter, the 1st respondent police have forwarded the complaint to the Protection Officer to conduct an enquiry and the Protection Officer has also found that there is no harassment of dowry by the petitioners. Since the 1st petitioner is not willing to live with the 2nd respondent, the 1st respondent police have filed a final report. There are no ingredients to constitute the offences under Sections 498(A) and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Even as per the FIR and charge sheet, allegations are very vague and omnibus allegations are made against the petitioners. The Social Welfare department has conducted an enquiry and found that there



CRL O.P. No.4529 of 2022

is no demand of dowry and statements of witnesses also disclosed that there was no any demand of dowry. But the alleged cruelty was based on the demand of dowry and once the demand of dowry is false, the subsequent incidents based on the alleged demand of dowry are also false. Therefore, the pending proceedings are liable to be quashed.

3(i) The learned counsel appearing for the petitioner, in support of his contention, has relied upon the following judgments:-

Kailashben Mahendrabhai Patel & Ors v. State of Maharashtra & Anr. in Criminal Appeal No.4003 of 2024 arising out of SLP (Crl) No.4044 of 2018.

4. The learned counsel appearing for the 2nd respondent would contend that the 1st petitioner and the 2nd respondent are husband and wife. All the petitioners along with other accused have caused cruelty and assaulted and caused criminal intimidation. On 26.03.2013, all the accused came to the house of the defacto complainant, assaulted and caused criminal intimidation. Hence, the 2nd respondent has lodged a complaint before the 1st respondent and based on the complaint, the 1st



CRL O.P. No.4529 of 2022

respondent police have registered the FIR in Cr. No.11 of 2013 for the offences under Sections 498(A), 506(i) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. Based on the complaint, the respondent police have investigated the case and filed final report as there are prima facie materials available for the offences under Sections 498(A), 506(i) of IPC and Section 4 of Tamil Nadu Protection of Harassment of Women Act. As per the investigation, there is no allegations in respect of demand of dowry. Therefore, the respondent police filed final report and the same was taken cognizance by the learned Judicial Magistrate, Additional Mahila Court, Cuddalore for the offences under Sections 498(A), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Therefore, there are prima facie materials available as against the petitioners and they have to face the trial and hence prayed to dismiss the petition.

5. The learned Additional Public Prosecutor appearing for the respondent police would submit that these petitioners along with others have harassed the defacto complainant / 2nd respondent and demanded dowry and also caused cruelty and assaulted the defacto complainant and



CRL O.P. No.4529 of 2022

therefore, she lodged a complaint and based on the complaint, the respondent police have registered the FIR for the offences under Sections 498(A), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and the 1st respondent police also conducted elaborate investigation and based on the investigation, they filed a final report. As per the investigation, there are prima facie materials available to proceed the case further as against the petitioners and hence they have to face the trial. Hence the petition is not maintainable and the same is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. In this case, there is no dispute in respect of relationship between the parties. The 1st petitioner is the husband of the 2nd respondent. The 2nd petitioner is the mother-in-law of the 2nd respondent. The 2nd accused is the father-in-law and the 4th accused is the aunt of the 1st petitioner. The main allegations levelled against the



CRL O.P. No.4529 of 2022

petitioners is that these petitioners along with other accused, demanded Rs.2 lakhs and 10 sovereigns of gold jewels and thereby, they harassed the 2nd respondent and caused cruelty. The complaint and the FIR also revealed the same. Thereafter, the 1st respondent has forwarded the complaint for the enquiry by Protection Officer and the Protection Officer also conducted an enquiry and found that no any demand of dowry and there is a family dispute pending between the parties. Thereafter, the 1st respondent also, through investigation, found that there is no demand of dowry. The main allegation as per the FIR and charge sheet is that the petitioners and other accused have demanded dowry and harassed the 2nd respondent by assaulting her. It is also an admitted fact that already matrimonial disputes are pending between the parties and even as per the complaint, these petitioners went to Cuddalore on 23.06.2013 and demanded dowry and also assaulted the 2nd respondent. The alleged date of occurrence is 23.06.2013 and the complaint was lodged on 01.11.2023. There is a delay in lodging the complaint and the same has not been properly explained.

8. Even according to the complaint, the petitioners along with



CRL O.P. No.4529 of 2022

other accused harassed the defacto complainant / 2nd respondent by demanding dowry. But as per the final report and statements of witnesses, it has been exaggerated in the complaint that the petitioners demanded dowry. Therefore, even as per the Prosecution, these petitioners have not demanded dowry. Therefore, the matrimonial dispute has given a colour of criminal case. Once the allegation of demand of dowry is false, the alleged allegations in respect of Sections 498(A) and 506(i) also creates serious doubts and even as per the FIR, charge sheet and the statements of witnesses, there are general and omnibus allegations and there is no any specific allegations as against each accused. As per the statements of witnesses and the FIR, these petitioners along with other accused have entered into the house of the defacto complainant and assaulted the 2nd respondent, the 1st petitioner slapped the 2nd respondent on her cheek, the 2nd accused pulled her saree, the 2nd petitioner pulled her hair and the 4th accused kicked on her stomach. These allegations are vague and not specific. The defacto complainant did not go to the hospital after the alleged occurrence and she did not sustain any injuries due to the above said acts.



CRL O.P. No.4529 of 2022

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9. In order to attract the offence under Section 498(A), the allegations are that the accused have harassed the defacto complainant by demanding dowry. In the statements of witnesses, they stated that the petitioners have not demanded dowry. Therefore, there is no any harassment and there is no any material to constitute the offence of causing cruelty by the petitioners. Therefore, there is no any materials to attract the provisions under Section 498(A) of IPC.

10. As far as the Section 506(i) of IPC is concerned, there is no any single word spoken by the witnesses to constitute the offence under Section 506(i) of IPC and there is no any material that the petitioners caused any criminal intimidation and the alleged intimidation created fear in the mind of the defacto complainant. Therefore, there is no any material to constitute the offence under Section 506(i) of IPC.

11. As far as Section 4 of Tamil Nadu Prohibition of Harassment



CRL O.P. No.4529 of 2022

of Women Act is concerned, the said Section has been included based on the offence under Sections 498(A) and 506(i) of IPC. Already this Court decided that there is no ingredients to constitute the offences under Sections 498(A) and 506(i) of IPC. Hence Section 4 of Tamil Nadu Prohibition of Harassment of Women Act would not attract. Moreover, even as per the allegations in the FIR and charge sheet, the alleged offences took place in the house of the petitioners and it is not within the public place and thereby, also Section 4 of Tamil Nadu Prohibition of Harassment of Women Act would not attract.

12. Therefore, as discussed above, there are no ingredients and materials to constitute the offences as against the accused. Therefore, the entire proceedings pending as against the accused is abuse of process of law and the family dispute is converted by giving criminal colour. Therefore, it is abuse of process of law. The learned Judicial Magistrate, Additional Mahila Court, Cuddalore has also, without perusing the materials, taken cognizance for the offences under Sections 498(A), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act without any materials.



CRL O.P. No.4529 of 2022

13. In this context, the learned counsel appearing for the petitioner, in support of his contention, has relied upon the following judgment:-

Kailashben Mahendrabhai Patel & Ors v. State of Maharashtra & Anr. in Criminal Appeal No.4003 of 2024 arising out of SLP (Crl) No.4044 of 2018.

14. On careful perusal of the above said judgement, it is clear that a bare perusal of the complaint, statement of witnesses and the charge sheet shows that the allegations against the appellants are wholly general and omnibus in nature, even if they are taken in their entirety, they do not prima facie make out a case against the accused, and the material on record neither discloses any particulars of the offences alleged nor discloses the specific role / allegations assigned to any of the accused in the commission of the offences, the phenomenon of the implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to law and in such circumstances, the pending



CRL O.P. No.4529 of 2022

proceedings based on the general and omnibus allegations are liable to be quashed. In the case on hand also, the complaint and the statements of witnesses and charge sheet, shows that the allegations against the petitioners are wholly in general and omnibus there is no materials against the accused and there are no materials on record to constitute the offences and there is no specific role assigned to any of the petitioners in the said commission of offences. Therefore, the said case law is squarely applicable to the present facts of the case.

In view of the above discussions, this Court is of the opinion that the pending proceedings without any materials are abuse of process of law and the same is liable to be quashed.

15. Accordingly, the criminal original petition is allowed and the pending proceedings in C.C. No.11 of 2015 on the file of the Judicial Magistrate, Additional Mahila Court, Cuddalore are quashed. No costs. Consequently, the connected miscellaneous petitions are closed.

03.10.2024

index: Yes/No
Internet: Yes/No



CRL O.P. No.4529 of 2022

Speaking/Non Speaking order

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P.DHANABAL,J

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To

1. The Judicial Magistrate, Additional Mahila Court, Cuddalore
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police, All Women Police Station, Cuddalore District.

CRL. O. P. No.4529 of 2022

03.10.2024