



Crl.O.P No.4748 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.4748 of 2023

and

Crl.M.P.No.3001 of 2023

1.Kaleeswaran
S/o.Periyannan

2.Anitha
W/o.Kaleeswaran

... Petitioners

vs.

1.The Inspector of Police,
All Women Police Station,
Sooramangalam,
Salem City.
Crime No.9 of 2022

2.Saraswathi
W/o.Jotheeswaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the final report filed in C.C.No.28 of 2023 on the file of Additional Mahila Court, FTC, Salem District.



CrI.O.P No.4748 of 2023

For Petitioners : Mr.D.Senthur Kugan
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]
No appearance [R2]

ORDER

This quash petition has been filed by A4 and A5 to quash the proceedings pending in C.C.No.28 of 2023 on the file of Additional Mahila Court, FTC, Salem District.

2. The second respondent, who is the *de facto* complainant, married A1 on 04.06.2021. The first petitioner (A4) is the brother of A1 and the second petitioner (A5) is the sister-in-law of A1. For both the *de facto* complainant and A1 it was a second marriage and both of them had children through the first marriage. There was some misunderstanding between the second respondent and her husband and an allegation has been made to the effect that family members had joined together and were causing mental agony to the *de facto* complainant and they were demanding property from the *de facto* complainant. In view of the same, the *de facto* complainant was also forced to go separately along with A1 and she was living at Sakthi Nagar in Coimbatore. In spite of the same,



CrI.O.P No.4748 of 2023

the family members continued to pester the *de facto* complainant for the property. This led to the complaint given by the second respondent to the first respondent and a First Information Report came to be registered in Crime No.9 of 2022. On completion of investigation, a final report was filed and the trial Court took cognizance for offences u/s.498-A, 323, 506(ii) and 294(b) IPC. Challenging the same, A4 and A5 have approached this Court.

3. Heard Mr.D.Senthur Kugan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor, appearing for first respondent. The second respondent has been served with notice and her name has also been printed in the cause list, however, there is no representation either in person or through counsel.

4. In the instant case, it was the second marriage both for the second respondent as well as A1. There seems to be some misunderstanding between second respondent and her husband. Even as per the admitted case of the second respondent, she had moved along with her husband to another place at Sakthi Nagar. Therefore, the



CrI.O.P No.4748 of 2023

petitioners were not even living with A1. Except the *ipse dixit* of the *de facto* complainant, there is absolutely no material available against the petitioners to rope them as accused in this case. Even in the Section 161 Cr.P.C. statement that was recorded from the *de facto* complainant, this Court finds that only general allegations have been made against the petitioners.

5. This case will squarely fall within the parameters laid down by the Apex Court in ***Preeti Gupta and another v. State of Jharkhand and another [(2010) 7 SCC 667]***. The Apex Court held that there is always a tendency to implicate all the immediate relations of the husband and make them undergo criminal prosecution. The Apex Court warned that such proceedings require the interference of the Court u/s.482 Cr.P.C. Useful reference can also be made to the recent judgment of the Apex Court in ***Abhishek v. State of Madhya Pradesh [2023 SCC OnLine SC 1083]***. The parameters that were laid down by the Apex Court in this judgment will also squarely apply to the facts of the present case. The continuation of the criminal proceedings as against the petitioners will



CrI.O.P No.4748 of 2023

clearly amount to abuse of process of law, which requires the interference of this Court in exercise of its jurisdiction u/s.482 Cr.P.C.

In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.28 of 2023 on the file of Additional Mahila Court, FTC, Salem District, is quashed insofar as the petitioners are concerned. Consequently, connected miscellaneous petition is closed.

03.01.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
gm

To

1.The Additional Mahila Court,
FTC, Salem District.

2.The Inspector of Police,
All Women Police Station,
Sooramangalam,
Salem City.
Crime No.9 of 2022

3.The Public Prosecutor,
High Court of Madras,
Madras.



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Crl.O.P No.4748 of 2023

N. ANAND VENKATESH., J

gm

Crl.O.P No.4748 of 2023

03.01.2024