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Crl.O.P.No.18888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.18888 of 2024
& Crl.M.P.Nos.11144 & 11146 of 2024

1. Jayanthi.

2. Manikandan.

... Petitioners/Accused Nos.4 & 5

Vs.

1. The State Rep. by its
Inspector of Police,
AWPS, Cuddalore.

... Respondent No.1/Complainant

2. Muthamizhelvi,

... Respondent No.2/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS and old provision 482 of Cr.P.C., to call for the records pertaining to the complaint filed in C.C.No.307 of 2024 pending on the file of Learned Additional Mahila Court (Magisterial Level), Cuddalore and quash the same.

For Petitioner : Mr.C.Pritheevraj

For R1 : Mr.S.Udaya Kumar.
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

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The petitioners herein are accused 4 & 5 in C.C.No.307 of 2024 on the file of Learned Additional Mahila Court, Cuddalore. On the complaint given by 2nd respondent/Muthamizhselvi alleging that she was subjected to cruelty and dowry harassment by her husband and in-laws, the 1st respondent police has registered the case and filed final report against these two petitioners and three others.

2. According to the petitioners, they were no way connected with the affairs of the complainant and her husband, who is the 1st accused. They had been falsely roped in the case, just because the 1st petitioner happened to be sister of the 1st accused, who is husband of the defacto complainant and 2nd petitioner is the husband of the 1st petitioner.

3. The Learned Counsel for the petitioner submits that these two petitioners are living in Eraiyanur, Tindivanam, Villupuram District. Whereas, the 2nd respondent and her husband/Senthil Kumar were living at Vazhisothanaipalayam, Cuddalore District. There was no occasion for the petitioners to cause any cruelty to the defacto complainant as alleged nor they demanded any money or dowry from her.



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4. The Learned Counsel for the petitioners submits that the statement of the defacto complainant/Muthamizhselvi only say that these two petitioners along with other accused, namely, her husband and mother-in-law, spoke ill about her and they prevented her from getting treatment in the hospital. A very vague allegation without any specific date of occurrence is only to rope in a person living elsewhere would be easily seen from the statement of witnesses particularly, from the statement of the defacto complainant and therefore, seek for quash of the complaint against them.

5. The Learned Government Advocate (CrI.Side) for the 1st respondent submits that the averments found in the statement of the complainant is suffice to frame charge for the offences under Section 498-A and 294(b) of I.P.C besides Section 4 of the Dowry Prohibition Act.

6. No doubt, the statement of the victim has to be considered to find out whether any commission of crime *prima facie* made out or not. However, when the specific case of the petitioners that they are not resident of Vazhisothanaipalayam, Cuddalore District and the petitioners were not living together with the 2nd respondent and her husband, the possibility of the petitioners being present at the seen of occurrence and the date of occurrence is



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very relevant. The statement of the defacto complainant does not state the date of the occurrence and how these petitioners were present in that house when there was cruelty and dowry demand. Such a vague complaint cannot be taken as a *prima facie* material to proceed for the offences under Section 498(A) of I.P.C and Section 3 & 4 of Dowry Prohibition Act.

7. Therefore, this Court finds that the case against these petitioners is a malafide attempt of the 2nd respondent to rope the relatives of her husband who are not even living within the vicinity of her place, which is very obvious from the record.

8. Hence, the complaint in C.C.No.307 of 2024 on the file of Additional Mahila Court, Cuddalore is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

10.09.2024

Index : Yes/No
Neutral Citation : Yes/No
bsm



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To

1. The Additional Mahila Court (Magisterial Level), Cuddalore.
2. The Inspector of Police, AWPS, Cuddalore.
3. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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