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Crl.O.P.No.24670 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.24670 of 2022

and

Crl.M.P.Nos.15533 & 15534 of 2022

- 1.Irshad Ali Abibouraguimane (Irshath Ali, A1 as per CC)
- 2.Abibouraguimane (Abibu Rahuman, A2 as per CC)
- 3.Mumtajunnissah (Mumtaj Nisha, A3 as per CC)
- 4.Ascary Sultana (Ascary Sulthana, A4 as per CC) ... Petitioners

Vs.

- 1.The Inspector of Police,
All Women Police Station,
Karaikal.

- 2.Sheeba Shafreen ... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records of the proceedings in C.C.No.49 of 2022 on
the file of the Judicial Magistrate Court-II, Karaikal and quash the same.



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For Petitioners : Mr.P.Vasudevan
For R1 : Mr.M.V.Ramachandramurthy
Additional Public Prosecutor (Puducherry)
Assisted by Mr.A.Alexander
Government Advocate (Puducherry)
For R2 : No appearance

ORDER

This petition has been filed to quash the C.C.No.49 of 2022 on the file of the Judicial Magistrate Court-II, Karaikal, in which cognizance was taken for the offence punishable under Sections 498(A) r/w 34 IPC and 4 of Dowry Prohibition Act 1961.

2. The case of the prosecution is that the defacto complainant solemnized her marriage with A1 on 07.08.2019. The petitioners 2 to 4, as in-laws of the defacto complainant, allegedly harassed her during her martial period in Karaikal and subsequently in Chennai with the common intention to do so. Furthermore, A1 to A4 purportedly left India without informing to the complainant. Upon approaching A5 to A7, who were aware of the marriage and allegedly colluded with A1 to A4, the complainant faced further harassment. They reportedly coerced her to accept a “KULAH



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divorce” instead of a “THALAAK divorce” as per the Muslim marriage law, thus subjecting her to cruelty. Additionally, during the marital period, A1 to A4 allegedly demanded dowry from the complainant's family, including her mother's residential house. Hence, the complaint was filed.

3. The learned counsel for the petitioners argued that the complainant married A1 on 07.08.2019, after which she was harassed by A1 and her in-laws, who demanded dowry and threatened her with a “Kula Nama”. They contend that no such incidents occurred, and the complaint was filed with ulterior motives. Subsequently, a settlement was reached between the parties, and the complainant voluntarily agreed to dissolve the marriage with A1, executing a “Kula Nama” deed of divorce, in the presence of the attester / witnesses and the copy of the “Kula Nama” also produced before this Court. Hence, he prays to quash the proceedings against them.

4. The learned Additional Public Prosecutor (Puducherry) submitted that after investigation, a the charge sheet filed against the petitioners and other accused persons A1 to A7 under Sections 498 (A) IPC r/w 34 IPC and 4 of Dowry Prohibition Act, 1961 and the same was taken on the file of



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Judicial Magistrate II Court, Karaikal in C.C.No.49 of 2022. During the trial proceedings, the accused persons A5 to A7 have filed a petition before this Court to quash the proceedings in C.C.No.49 of 2022 and the same was allowed and the proceedings in C.C.No.49 of 2022 was quashed against them. He further submitted that the trial proceedings were transferred from the learned Judicial Magistrate II, Karaikal to the file of the Judicial Magistrate -I, Karaikal due to administrative reasons and renumbered as CC.No.33 of 2022. The petitioners / A1 to A4, who reside at France, did not appear before the Court during the trial proceedings.

5. Considering the facts and circumstances and also considering the submissions made by both side counsels and on a perusal of the “Kula Nama” the Court noted that a settlement had been reached, with one condition being the withdrawal of C.C.49 of 2022, now renumbered as CC.No.33 of 2022. Thus , this Court is inclined to quash the proceedings against the petitioners in C.C.No.33 of 2022 before the learned Judicial Magistrate -I, Karaikal



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WEB COPY 6. Accordingly, this Criminal Original Petition is allowed. “Kula Nama” shall form a part and parcel of this order. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/ No
Neutral Citation: Yes/No
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To

1.The Inspector of Police,
All Women Police Station,
Karaikal.

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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