



Crl.O.P(MD).No.548 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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CORAM:

DATE: .08.2024

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P(MD).No.548 of 2024 and
Crl.M.P.(MD) No.324 of 2024

1. Karthik Raja

2. Muthulakshmi

3. Raju

...Petitioners/Accused

-Vs-

1. The State rep through its
The Inspector of Police
All Women Police Station
Palani,
Dindigul District

(FIR in Crime No.13 of 2023)

...Respondent/Complainant

2. R.Aishwarya

...Respondent/De-facto Complainant

Prayer:- The Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to call for the entire records pertaining to the Impugned FIR in Crime No.13 of 2023 dated 01.09.2023, registered on the file of the 1st Respondent police under Section 294(b), 498(A), 506(2) of Indian Penal Code and Section 4 of Dowry Prohibition Act, 1961 and quash the same in respect of petitioners.

For Petitioner : M/s.S.M.Ramasiva



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For R1 : Mr.Thanga Aravindh
For R2 : Mr.Jeyesh B.Dolia
for M/s.Aiyar & Dolia

ORDER

The Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the entire records pertaining to the Impugned FIR in Crime No.13 of 2023 dated 01.09.2023, registered on the file of the 1st Respondent police under Section 294(b), 498(A), 506(2) of Indian Penal Code and Section 4 of Dowry Prohibition Act, 1961 and quash the same in respect of petitioners.

2. The learned Counsel appearing for the Petitioners submitted that the Petitioner-1 is the husband of the Respondent-2. After marriage, the Petitioner-1 came to know about the pre-marital relationship of the Respondent-2, based on which he had issued lawyer notice seeking dissolution of the marriage. After receipt of notice issued by the Petitioner-1, the father of the Respondent-2 along with his relatives came to the house of the Petitioners and attacked the Petitioners. The Petitioners had preferred the complaint with the Respondent-1. As a counter blast, the Respondent-2 had lodged the complaint with the Respondent-1, based on which the F.I.R in Crime No.13 of 2023 came to be registered.



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3. It is the further submission of the learned Counsel for the Petitioners that the Petitioner-1 is working in United States. Only to wreak vengeance on the Petitioner-1, the parents of the Petitioner-1 had been wantonly roped in by the Respondent-2.

4. The learned Counsel for the Respondent-2, Jeyesh B.Dolia for M/s.Aiyar & Dolia submitted his arguments. The learned Counsel for the Respondent-2 invited the attention of this Court to the contents of F.I.R wherein it was stated that the de-facto Complainant, Respondent-2 came for delivery of her second child. After delivery of the child, when she went to her matrimonial home, her in-laws particularly the parents of her husband did not allow her inside the house. They pushed her out of the house and locked the door from behind. They demanded a car, 100 sovereigns of gold and Rs.5,00,000/- cash as dowry. Only after fulfilling the dowry demand, the in-laws would let her inside the home. Their elder son, Yashwin was born in U.S.A. As per their traditional customs, she came to India to tonsure the head of their male child in Palani and her husband also accompanied her. She was in the maternal home. When she visited the in-law matrimonial home, the in-laws pushed her out of the



house and locked the door from behind. The husband of the de-facto Complainant attacked her.

5. A Joint Bank Account was maintained by the husband and wife and the husband had the custody of the debit card of that Joint Bank Account. The husband refused to hand over the debit card belonging to the Respondent-2, de-facto Complainant. Also the father of the husband had entered the net banking through his mobile phone and blocked her operations of the Joint Bank Account, which forced her to prefer a complaint which was registered in F.I.R in Crime No.13 of 2023 on the file of All Women Police Station, Palani. The investigation proceeded culminating filing of the final report against the husband and the in-laws. Therefore what had been raised by the learned Counsel for the Petitioners are to be treated as viable defence available to the Petitioners during trial and it is not a fit case to exercise extraordinary jurisdiction under Section 482 of Cr.P.C to quash the same.

6. In the Complaint, it was stated that when the wife became pregnant, the in-laws gave her medicines as though, it was for maintaining good health. On the contrary, it was the medicine given for abortion,



therefore she suffered abortion. When she suffered abortion, the mother-in-law of the Respondent-2 was alleged to have shouted that when the wife was unable to meet out the demand for dowry, why should she bear another child? The mother in law had caused abortion by giving her medicine to abort her second child on the ground that she had not meet out the demand for dowry.

Point for consideration

Whether the F.I.R in Crime No.13 of 2013 or a final report laid by the learned Judicial Magistrate, Dindigul is to be quashed?

7. On consideration of the rival submissions, the contention of the learned Counsel for the Petitioners that the husband was away in U.S.A and not in co-habiting with the Petitioner in the house of the in-laws. The facts mentioned in the F.I.R was not at all occurred, it was a fertile imagination of the Respondent-2. If it is accepted, the offence is not attracted. As on the date of the offence, the first Petitioner was away in U.S.A. And the Petitioner-2 and Petitioner-3 were in Dindigul. The ingredients of offence under 498A, 294(b) and 506(2) were not attracted.



8. It is the submission of the learned Counsel for the Petitioner that prior to the marriage, the Respondent-2 was in a relationship with one Prashanth. After the marriage when the Petitioner-1, husband came to know about it, he sent a legal notice for the dissolution of the marriage. The date of marriage between the Petitioner-1 and the Respondent-2 was on 03.09.2017. The date of legal notice was sent on 29.08.2023 by the Respondent-2 through whatsapp and e-mail. After receipt of the notice, the father of the de-facto Complainant along with his relatives entered the house of the Petitioners and attacked them. Due to the attack, in the house of the Petitioners, the Petitioner had raised complaint through online CCTNS portal with Reference No.RUS23160039 dated 29.08.2023.

9. Also it is the contention of the learned Counsel for the Petitioners that without conducting preliminary enquiry, due to the influence of the father of the de-facto Complainant, F.I.R was registered in Crime No.13 of 2023 ignoring the guidelines of the Hon'ble Supreme Court in the case of ***Lalitha Kumari -vs- State Government of Uttar Pradesh***. The contents of the F.I.R are vague therefore the same has to be quashed.

10. Considering the submissions of the learned Counsel for the



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Petitioners and learned Counsel for the de-facto

Complainant/Respondent-2, what had been argued by the learned Counsel for the Petitioner is found to be unacceptable in the light of the submission made by the learned Counsel for the second respondent. F.I.R is not considered as gospel truth. Based on the F.I.R only, enquiry or investigation proceeds. The Investigation Officer has the discretion either to lay the final report or close the report as the case may be. Here in this case, the Respondent Police had filed status report where the complaint that the notice proceeds to the final stage of the filing of the final report. Since the Crl.O.P had been filed, interim stay was granted. Investigation report has not been filed.

11. The submission of the learned Counsel for the Petitioner that the Petitioner-1 married the Respondent-2 on 03.09.2017. He had sent the legal notice on 29.08.2023 stating that de-facto Complainant was in relationship with one Prashanth therefore seeking dissolution of marriage. Only after notice was served through whatsapp, the parents of the de-facto Complainant along with relatives. Went to the house of the Petitioners and attacked the parents of Petitioner-1. The Petitioner-1 had given complaint through online portal in CCTNS with reference No.RUS23160039 dated



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29.08.2023 based on which, the complaint was given by wife against the husband and the In-laws. The offence claimed in the petition had not been attracted. Therefore he seeks to quash the F.I.R in Crime No.13 of 2023.

12. Also it is the contention of the learned Counsel for the Petitioners that as per the reported ruling in ***Lalitha Kumari vs State Government of Uttar Pradesh***, in Matrimonial dispute, the details has to be registered only after conducting preliminary enquiry. Here preliminary enquiry was not conducted and using influence of the father of the Respondent-2, the F.I.R was registered. In ***Lalitha Kumari -vs State Government of Uttar Pradesh***, the Hon'ble Supreme Court had given only direction that the F.I.R need not be registered immediately. The Investigation Officer can conduct counseling. In counseling, the Husband and wife may unite in matrimonial home. In case, they does not unite after the counseling, F.I.R can be registered. Here, it is the case where F.I.R was registered based on the influence exercised by the father of the de-facto Complainant. That cannot be a ground to quash the F.I.R. It is a general guideline issued to the Investigation Officers to consider delay in registering F.I.R on the ground of conducting enquiry or Counseling so that the husband and wife may unite in matrimonial relationship. Here the



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contents of F.I.R goes to show that for the failure on the part of the wife to bring dowry, the in-laws has closed the door and not allowed her inside.

Also they are alleged to have given tablets under the pretext of maintaining good health. It was contrary it was drugs for abortion, thereby the wife suffered abortion. These are disputed facts which cannot be considered at the earliest stage.

13. As per the reported ruling of the Hon'ble Supreme Court in ***State of Haryana -vs- Bhajan Lal***, the valuable defence or possibility of acquittal cannot be considered as a ground to quash the F.I.R. Whether the Petitioner-1, the husband was available in Dindigul ? Whether the Petitioner-1 attacked the Respondent-2, wife? Whether the mother and father of the husband had pushed her and the child from the house and locked it from behind are the facts to be considered only by adducing the evidence and not at this stage to quash the F.I.R under Section 482 of Cr.P.C.

14. From the contents of the F.I.R, it is found that there are ingredients to attract offence against the Petitioners whether the husband or in-laws demanded Rs.5,00,000/- cash, a car and 100 sovereigns of Gold



jewels are to be considered during trial. From the submission of the learned

Counsel for the Petitioners, it is found that for the alleged relationship prior to marriage, after marriage in 2017, the Husband issuing lawyers notice attributing extra marital affairs for the reason to proceed with dissolution of marriage is found to attract the provisions of Dowry Prohibition Act. Whether there was pre marital relationship before marriage? Whether it can be a ground for dissolution of marriage? are to be considered only during trial and not at this stage. When the wife claims that she had been harassed for dowry it is a reason to believe that instead of seeking dissolution of marriage for failure to demand of dowry the husband had proceeded to dissolution of marriage under the pretext of alleged relationship prior to marriage. It is a ground strongly believed that the Husband had attempted to dissolve the marriage for failure for dowry. Instead of failure of demand for dowry, the husband had found out the way by claiming relationship prior to marriage that too in the year 2020 when the marriage took place in the year 2017. If it was immediately after marriage, it is justified. After delivery of a child when second child in the womb was aborted on the pretext of failure to fulfil dowry demands. These are all disputed facts to be considered by adducing evidence at the time of trial in the case arising out of F.I.R in Crime No.13 of 2023. Whether the



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complaint preferred by in-laws against the wife and her parents, whether a case was registered, if so, whether charge sheet was filed in that case are to be considered only during the trial in this case in Crime No.13 of 2023. If the parents of the de-facto Complainant along with thier relatives were alleged to have trespassed in the house of the Petitioners and attacked them culminating in registration of a case in which case, it is a valuable defence of the Petitioner herein as Accused to be considered during trial. Whether the Police had acted fairly and impartially resulting in two (2) charge sheets received by the same learned Judicial Magistrate. If one of the case is registered and other is not registered and closed as mistake of fact, then the Petitioners herein has a right of defence that the Police had not acted fairly independently and impartially on which ground the Petitioners can seek acquittal. The same cannot be a ground to quash the F.I.R at this stage. What had been raised in the petition for quashing out the F.I.R, is found to attract the guidelines under *State of Haryana -vs- Bhajanlal*. The valuable defence or the possibility of acquittal cannot be a ground to quash the F.I.R.

15. In the light of the above **the point for consideration is**



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answered against the Petitioner and in favour of the Respondent-2.

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In the result, this Criminal Original Petition is dismissed. The Respondent-1 is directed to file the final report before the competent Court concerned.

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Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

To

1. The State rep through its
The Inspector of Police
All Women Police Station
Palani,
Dindigul District
(FIR in Crime No.13 of 2023)

SATHI KUMAR SUKUMARA KURUP, J.,



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