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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) Nos.1001 and 3328 of 2024

and

Crl.M.P.(MD) No.647 of 2024

In Crl.O.P.(MD) No.1001 of 2024:

- 1.Annapoorani
- 2.Lakshmanan Chettiyar
- 3.Meenal

... Petitioners

VS

- 1.The Inspector of Police,
All Women Police Station,
Pudukottai,
Pudukottai District.

- 2.Sathappan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records pertaining to the First Information Report in Crime No.16 of 2023 dated 18.11.2023 pending on the file of the first Respondent and quash the same as illegal.

For Petitioners	: Mr.C.M.Arumugam
For R1	: Mr.M.Veeranthiran
	Government Advocate (Crl.side)
For R2	: Mr.S.M.Ramsiva

In Crl.O.P.(MD) No.3328 of 2024:

1/19



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Sathappan

...Petitioner

VS

1.The Superintendent of Police,
Office of Superintendent of Police,
District Police Office,
Thirumayam Road,
Pudukottai District.

2.The Inspector of Police,
All Women Police Station,
Pudukottai,
Pudukottai District.

3.Annapoorani

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the second Respondent police to file final report in the FIR in Crime No.16 of 2023 within a time stipulated by this Court.

For Petitioner	: Mr.S.M.Ramsiva
For R1 & R2	: Mr.M.Veeranthiran Government Advocate (Crl.side)
For R3	: Mr.C.M.Arumugam

COMMON ORDER

Crl.O.P.(MD) No.1101 of 2024 has been filed to call for the records pertaining to the First Information Report in Crime No.16 of 2023 dated 18.11.2023 pending on the file of the first Respondent and to quash the same as illegal.



2.Crl.O.P.(MD) No.3328 of 2024 has been filed to direct the second Respondent police to file final report in the FIR in Crime No.16 of 2023.

3.The learned Counsel for the Petitioners submits that the Petitioners are arraigned as accused 1 to 3 in Crime No.16 of 2023 pending on the file of the first Respondent. The case was registered on the basis of the complaint given by the second Respondent/defacto Complainant. The defacto Complainant is none other than the first Petitioner's father-in-law.

4.As per the complaint of the second Respondent, the first Petitioner herein was married with the younger son of the second Respondent on 23.08.2018. They started their marital life at No.6, Manikkam Nagar, Pudukottai District. After some time, she went along with her husband to Singapore on tourist visa. At the expiry of the tourist visa, she came down to her matrimonial home at Pudukkottai. In January, 2019, again the first Petitioner went to Singapore along with her husband. After a period of two months, she came back. The second Respondent is living in the house, which is in the name of his elder son and another house was constructed in the name of the husband of the first Petitioner at Padur, Chennai.



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5. Meanwhile, difference of opinion arose in the matrimonial home between the first Petitioner and her husband, the younger son of the second Respondent which culminated in the initiation of matrimonial proceedings. The husband of the first Petitioner filed HMOP.No.224 of 2021 on the file of the Family Court, Pudukottai for the relief of restitution of conjugal rights. The said petition was dismissed for non prosecution. Again the husband of the first Petitioner filed HMOP.No.38 of 2022 seeking the relief of dissolution of marriage. The said petition was also dismissed for non prosecution. At the same time, the first Petitioner filed HMOP.No.53 of 2022 for the relief of restitution of conjugal rights. The same was allowed on 07.02.2023.

6. It is alleged that though the first Petitioner was instructed to return to the matrimonial home, she denied. On the other hand, she insisted either to transfer the title of the property at Pudukkottai or to part with amount of Rs.50,00,000/-. Further, the first Petitioner started to threaten the defacto Complainant that she would initiate false prosecution against him. Thereafter, it was agreed to take the first Petitioner to Singapore. Visa was not granted to the minor daughter of the first Petitioner, who was born on



16.09.2019.

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7.The allegation of the second Respondent that the second Respondent along with his wife left for United States for some time. Further, they all stayed at Singapore for some time. On 08.10.2023, the defacto Complainant and his wife returned to Pudukkottai. The next day, they went to the temple. At that time, the Petitioners along with their relatives trespassed into the residence of the second Respondent in a high handed manner and started to quarrel with him.

8.The second Respondent was not allowed to enter his room to take medicine. The first Petitioner attempted to gather evidence by taking videos with an intention to project false case. The Petitioners denied the contents of the complaint preferred by the second Respondent. Even before the marriage of the first Petitioner with the second Respondent's younger son, the second Respondent and his wife demanded Rs.10,00,000/- along with diamond, gold jewellery and silver utensils as dowry. The first Petitioner and her parents expressed their inability to provide such high amount and provided Rs.3,00,000/- and diamond, gold jewellery and silver utensils items.



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9.The first Petitioner was working as Software Engineer in Singapore even before the marriage. The first Petitioner's husband promised that he would take the first Petitioner to Singapore after the marriage by obtaining visa. He neither arranged for visa nor taken the house for accommodation till this date from the date of marriage. The first Petitioner was taken to Singapore only for a period of four months.

10.The first Petitioner was treated as maid in the matrimonial home by the parents of her husband. The parents of the husband and the elder brother demanded Rs.7,00,000/- and two more diamond jewellery as additional dowry to permit the first Petitioner to live with her husband. The first Petitioner returned to India after the expiry of the tourist visa on 19.03.2019 and went to the matrimonial home located at No.6, Manikkam Nagar, TVS Near, Pudukkottai along with her husband's parents on 20.03.2019.

11.The first Petitioner was forcefully expelled from the matrimonial home by her husband's parents seeking additional dowry. When she was



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pregnant by 8 months, the first Petitioner was confined in a locked room by the husband's parents and his elder brother. When this was informed to her husband, her husband had informed the first Petitioner that his family members will act in such a way, unless she brings additional dowry.

12. On 22.07.2019, the first Petitioner was once again expelled from the matrimonial home. The first Petitioner was forced to come down to her parents house without any remedy and help from the husband. The first Petitioner was blessed with a female child, by name Sahashra. Till this date, neither the husband nor the parents of her husband visited the child. The first Petitioner had moved Chennai for higher studies and livelihood to cover the basic expenses for her and the child. Upon the instigation of the mother in law, the husband of the first Petitioner filed HMOP.No.38 of 2022 on the file of the Family Court, Pudukkottai seeking dissolution of marriage. The case was dismissed on 27.01.2023 ordering monthly interim maintenance of Rs.25,000/-.

13. The husband of the first Petitioner did not deposit the amount. Since the first Petitioner had to travel from Chennai to Pudukkottai for



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hearings, it severely impacted her studies. The first Petitioner filed H.M.O.P.No.53 of 2022 on the file of the Family Court, Pudukkottai for restitution of conjugal rights. The same was allowed on 07.02.2023.

14.The husband of the first Petitioner did not obey the order. Since there is no remedy for life and safety of the first Petitioner and her minor daughter, she moved back to the matrimonial home along with her daughter on 09.10.2023. Since then, the parents of the husband have started to ill-treat the first Petitioner. She was not even allowed to cook with an intention to expel her from the matrimonial home, calling the minor daughter as criminal and threatening to kill the Petitioners using accomplices. By availing loan, the first Petitioner admitted her daughter in Kindergarten. The set top box was also removed by the parents of the husband to get the minor daughter not having access to the television. The parents of the husband of the first Petitioner are threatening the first Petitioner that they will arrange another marriage for her husband, if the first Petitioner do not bring additional dowry. The first Petitioner is keeping some of the Sridhana articles locked in a separate house owned by one Velayutham and do not give any access to the first Petitioner. The Sridhana articles were deposited



in Grama Bank, Keelasevalpatti.

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15.The first Petitioner and her husband has a joint account with Tamil Nadu Grama Bank, Keelasevalpatti, in which there is a deposit of Rs. 3,00,000/-. Also, it has locker facility for items 2 to 42 as mentioned in the table annexed in the typed set of papers. The deposit of Rs.3,00,000/- and the items 2 to 42 as mentioned in the table annexed in the typed set of papers were provided as Sridhana by the parents of the first Petitioner. The first Petitioner is prevented from access to the locker. The husband of the first Petitioner tried to convert the account as single account in his name.

16.The matrimonial house has 3 rooms. The keys of all the rooms and the main door of the house are with the custody of the mother-in-law of the first Petitioner. Allowing the unknown persons up to the bedroom causing safety concerns for the first Petitioner, the minor child and her belongings. The conduct of the mother-in-law of the first Petitioner causes stress and mental agony to the first Petitioner and well being of the minor child.

17.The facts being so, the husband of the first Petitioner was having



free access to the rooms to take out the belongings with an intention to file a false complaint against the first Petitioner with the help of police personnel.

The first Petitioner was constrained to record the events, where the parents of the husband of the first Petitioner had taken their belongings without any interference from the residence on their own volition. The video footages will prove that the case of the prosecution is totally false.

18.The Petitioners have been wantonly implicated in the aforesaid case. They are in no way connected to the case. The Petitioners moved anticipatory bail. The Petitioners were granted anticipatory bail in Cr.M.P.No.106946 of 2023 on 05.12.2023 by the learned Principal District and Sessions Judge, Pudukkottai with conditions. Subsequently, relaxation petition was also filed by the Petitioners in CrI.M.P.No.107727 of 2023. The said petition was allowed on 22.12.2023. The petition has been filed, as the Petitioners do not have any other relief except to approach this Court by invoking the inherent powers of this Court.

19.The second Respondent has no *locus standi* to initiate the proceeding, when his son left the first Petitioner and the minor child in the



lurch without complying with the order passed by the competent Family Court for monthly maintenance. The appreciation could not make out any case. On the other hand, the inclusion of the provisions of Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is an abuse of process of law.

20.The instant case would squarely fall within the guidelines issued by the Hon'ble Supreme Court in *State of Haryana vs.Ch.Bhajan Lal* reported in *(AIR) 1992 SC 604*. Therefore, the learned Counsel for the Petitioners seeks to quash the FIR in Crime No.16 of 2023 pending on the file of the first Respondent.

21.As per the written submission filed by the *defacto* Complainant/the second Respondent, the second Respondent has two sons, namely Santhappan and Mani. The second Respondent/the *defacto* Complainant executed a settlement deed dated 25.03.2011 through the registered settlement deed bearing Doc.No.1828/2011 on the file of the Sub Registrar, Pudukottai in favour of his elder son, Sathappan. The elder son had built a home in the said property, where the defacto Complainant resided along



with his family.

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22.The elder son of the *defacto* Complainant is employed as Software Engineer in United State of America. The elder son had left India and handed over the keys of the property to the *defacto* Complainant/the second Respondent. The second Respondent was looking after the home on regular basis and was living peacefully without any disturbance.

23.Meanwhile, the first Petitioner along with her family members nearly 4 or 5 members including her parents had illegally trespassed into the house of the *defacto* Complainant/the second Respondent, which is situated at 6, Manickam Nagar, Rajagopalapuram Post Near TVS, Rajagopalapuram, Pudukottai District. They had trespassed into the house without obtaining the consent either from the *defacto* Complainant or from his elder son. The first Petitioner after illegally trespassed had damaged the property and damaged the electronic items planning to built a separate wall.

24.The Petitioners physically and mentally harass the second Respondent and his wife forcefully sent them out of his home. The second



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Respondent is a senior citizen. Now, he is homeless. The elder son of the second Respondent is residing outside the Country. The younger son is also residing out of the Country. Therefore, there is no one to take care of the *defacto* Complainant. Already, a legal notice was sent to the Petitioners seeking them to vacate and hand over the possession of the property to the second Respondent. The Petitioners have not responded to the legal notice.

25. Since the trespass of the Petitioners was informed to the sons of the second Respondent, the elder son, who is working in USA, had sent online complaint to the first Respondent. The second Respondent's wife is a heart patient. The Petitioners had locked the second Respondent's wife's room in the house. The Petitioners had taken all the things, which belongs to the second Respondent's son. The second Respondent and his wife were mentally and physically harassed. The petition has no merit as per the guidelines issued in ***State of Haryana vs. Ch. Bhajan Lal*** reported in ***(AIR) 1992 SC 604***. The act of the Petitioners are *mala fide* and therefore, the petition has no merit and is therefore liable to be dismissed.



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26.The learned Government Advocate (Crl.side) for the first Respondent would submit that the *defacto* Complainant had filed Crl.O.P. (MD) No.3328 of 2024 seeking direction against the first Respondent to complete the investigation and to file the final report in Crime No.16 of 2023 on the file of the first Respondent. He invited the attention of this Court to the contents of the FIR in Crime No.16 of 2023.

27.On perusal of the same, cognizable offence under Sections 294(b), 352, 341, 443 and 506(i) IPC and Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is attracted. He has adopted the submission of the learned Counsel for the second Respondent appeared in Crl.O.P.(MD) No.1001 of 2024. These petitions have no merit and it has to be dismissed.

28.The learned Government Advocate (Crl.side) would further submit that what had been submitted by the learned Counsel for the Petitioners in Crl.O.P.(MD) No.1001 of 2024 is to be considered as valuable defense available to the accused during trial and cannot be considered under Section 482 of Cr.P.C.



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29. On consideration of the rival submissions, it is found that there had been matrimonial dispute between the first Petitioner, her husband and the parents of her husband. HMOP.No.38/2022 filed by the husband for divorce was dismissed by the learned Judge, Family Court, Pudukkottai on the ground that the husband had not paid the interim maintenance as ordered by the Court in I.A.No.282 of 2022 in HMOP.No.38 of 2022, vide order dated 27.01.2023. The case was prosecuted by the second Respondent, as the Petitioner in HMOP.No.38 of 2022, husband of the first Petitioner in CrI.O.P.(MD) No.1001 of 2022 is residing in Singapore. Therefore, the second Respondent in CrI.O.P.(MD) No.1001 of 2022, the father of the Petitioner in HMOP.No.38 of 2022 was prosecuting the case and he was aware of the interim order passed in I.A.No. 282 of 2022 in HMOP.No.38 of 2022 dated 28.12.2022.

30. The Petitioner in HMOP.No.38 of 2022 was the Respondent in I.A.No. 282 of 2022. Since counter was not filed, the learned Judge, Family Court, Pudukkottai had allowed the petition. No petition was filed to set aside the order. The Respondent in I.A.No. 282 of 2022, who is the



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Petitioner in HMOP. No.38 of 2022, had only sought extension of time for payment of interim maintenance. That was considered and time was granted.

Still, he failed to pay the maintenance amount to his wife, the Petitioner in I.A.No.282 of 2022, the Respondent in HMOP.No.38 of 2022. Therefore, HMOP.No.38 of 2022 filed by the son of the second Respondent in CrI.O.P. (MD) No.1001 of 2024 for divorce, which was prosecuted by the second Respondent in CrI.O.P.(MD) No.1001 of 2024, was dismissed on 27.01.2023.

31.HMOP.No.53 of 2022 filed by the wife seeking restitution of conjugal rights was considered after due enquiry and an order was passed in HMOP.No.53 of 2022 for restitution of conjugal rights in favour of the Petitioner in HMOP.No.53 of 2022 on 07.02.2023. After both the petitions were ordered, FIR was registered on 18.11.2023, which is nothing but an abuse of process of the Court for converting the civil dispute into criminal dispute, as though the daughter-in-law and her husband had trespassed into the house of the second Respondent.

32.On perusal of the provisions of the Maintenance and Welfare of



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Parents and Senior Citizens Act, 2007, it is found that the civil Court has no jurisdiction to try the cases arising out of the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. What had been filed by the Petitioners herein indicates that there was matrimonial dispute between the first Petitioner and her husband. The husband is none other than the younger son of the defacto Complainant/the second Respondent. He had filed a petition for divorce, which was dismissed, as he failed to pay the interim maintenance to his wife. HMOP.No.53 of 2022 filed by the wife seeking restitution of conjugal rights was allowed by the learned Judge, Family Court, Pudukkottai.

33.Under those circumstances, the defacto Complainant/the second Respondent who was the power of attorney agent of the husband of the Petitioner herein, who has conducted the case in HMOP.No.38 of 2022 filed by the husband for divorce. Since the petition is dismissed, to wreak vengeance on the daughter-in-law, the Petitioners in CrI.O.P.(MD) No.1001 of 2024 have filed a case with false allegations against the daughter-in-law.

34.Here, there are civil dispute between the parties. Therefore, to



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wreak vengeance, the civil dispute is converted into a criminal dispute using the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. If the defacto Complainant is really aggrieved, he should have approached the District Collector, who is the Tribunal under the said Act and obtain appropriate orders. Registration of the case based on the complaint of the De-facto Complainant/Respondent No.2 herein is found unacceptable.

35.In the light of the above discussion, the FIR in Crime No.16 of 2023 dated 18.11.2023 pending on the file of the first Respondent in Crl.O.P.(MD) No.1001 of 2024 is hereby quashed.

36.In the result, ***Crl.O.P.(MD) No.1001 of 2024 stands allowed.***
Crl.O.P.(MD) No.3328 of 2024 stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Internet:Yes./No
Index:Yes/No
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20.03.2024



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SATHI KUMAR SUKUMARA KURUP, J.

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To

1. The Superintendent of Police,
Office of Superintendent of Police,
District Police Office,
Thirumayam Road,
Pudukottai District.
2. The Inspector of Police,
All Women Police Station,
Pudukottai,
Pudukottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL.O.P (MD) Nos.1001 and 3328 of 2024

20.03.2024

19/19