



CrI.O.P.(MD) No.2195 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.02.2024

PRONOUNCED ON : 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P (MD) No.2195 of 2024

1.H.Ahamed Sulaiman

2.E.K.S.Kaja Mohideen

3.Aminal Beevi

4.Nisath

5.Mohammed Ismail

6.Mohsin Hamidh

...Petitioners

VS

1.The Superintendent of Police,
Thenkasi District,
Thenkasi.

2.The Additional Superintendent of Police,
Thenkasi District,
Thenkasi.

3.The Inspector of Police,
Kadayanallur Police Station,
Thenkasi District.

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4.Sofia Nasrin

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the 1 to 3 Respondent Police not to harass the Petitioners in the guise of enquiry without following due process of law based on the representation dated 08.02.2024.

For Petitioners : Mr.R.Anand
For R1 to R3 : Mr.B.Thanga Aravindh
Government Advocate (CrI.side)
For R4 : Mr.R.Gandhi Senior Counsel for
M/S.Gandhi Associates

ORDER

The learned Counsel for the Petitioners submit that the Petitioners are harassed by the Respondents 1 to 3 on the pretext of the complaint lodged by the wife of the first Petitioner. He also furnished additional typed set showing the whatsapp messages exchanged between the first Petitioner and the fourth Respondent/De-facto complainant, which exposes that they were not in a good relationship in the matrimonial life.

2.The learned Counsel for the Petitioners also submitted that the fourth Respondent/De-facto complainant is the daughter of a practicing senior Lawyer of Tenkasi District. Therefore, based on the matrimonial



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dispute, the fourth Respondent/De-facto complainant had approached the third Respondent and lodged a complaint based on which the entire family members of the husband had been arraigned as accused and harassed by the Respondents 1 to 3.

3.The learned Counsel for the Petitioners relied on the ruling of the Hon'ble Supreme Court in the case of ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** reported in ***(2014) 2 Supreme Court Cases 1***, wherein it had been stated as under:-

“A.Criminal Procedure Code, 1973- Ss.154, 155, 156 and 157-FIR in cognizable case – Registration of – Whether is mandatory or police officer has option, discretion or latitude of conducting preliminary inquiry before registering FIR – Mandatory registration of FIR on receipt of information disclosing a cognizable offence as the general rule – Situations/cases in which preliminary inquiry is permissible – Scope of, and safeguards to be followed in cases where such preliminary inquiry (time-bound) is permissible.”

4.In the light of the above, the learned Counsel for the Petitioners sought directions against the Respondents 1 to 3 not to harass the Petitioners under the guise of enquiry.



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5.The learned Government Advocate (Crl.side), on instructions of the Respondents 2 and 3, submitted that already the fourth Respondent/De-facto complainant lodged a complaint, based on which F.I.R was registered in Crime No.327 of 2023 dated 23.08.2023. After registration of the F.I.R, the Petitioners are alleged to have approached the Sessions Court and obtained Anticipatory Bail, but not executed surety. Instead, they had filed this Petition not to harass him. Subsequently, the Petitioners herein are alleged to have exerted pressure on the fourth Respondent/De-facto complainant to withdraw the complaint. Therefore, second F.I.R had been registered on 08.02.2024 in Crime No.63 of 2024. Therefore, the learned Government Advocate (Crl.side), seeks to dismiss this petition as not maintainable.

6.The learned Government Advocate (Crl.side) invited the attention of this Court to the contents of the FIR. As per the complaint of the *defacto* Complainant, when she entered into the hall of her matrimonial home, the first accused/the husband of the *defacto* Complainant pulled her and hit her head on the wall. The parents of the first accused stated that if she is alive, you cannot marry the girl, whom we had fixed for you. She should be killed. Immediately, the sister of the husband came from the room and using



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abusive words against the *defacto* Complainant and shouting that she should not be alive stated that the *defacto* Complainant should be murdered, otherwise you will not marry the girl, with whom his marriage was fixed. All the accused joined together and provoked the husband of the *defacto* Complainant to kill her. Therefore, the first accused, the husband of the *defacto* Complainant attempted to throttle her forcibly on her neck. At that time, the cousin of the husband of the *defacto* Complainant and the elder paternal uncle of the *defacto* Complainant came there. On seeing the occurrence, they rushed to rescue the *defacto* Complainant and thwarted the attempt of her husband to kill her. Sensing danger to her life, the *defacto* Complainant had approached the third Respondent/the Inspector of Police, Kadayanallur Police Station, Tenkasi District and sought protection for her life and limb and to take action against the accused persons/*defacto* Complainant's husband and her in laws. Based on the complaint only, the third Respondent had registered a case against the Petitioners herein. Therefore, the learned Government Advocate (Crl.side) vehemently objected to the submission of the learned Counsel for the Petitioners seeking quashment of the FIR.



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7. Based on the submission of the learned Government Advocate (Crl.side), the learned Counsel for the Petitioners submitted that only to harass the Petitioners, the fourth Respondent/De-facto complainant had lodged a complaint and had filed a petition under Domestic Violence Act before the learned Judicial Magistrate, Tenkasi. The Domestic Violence case was filed on 30.01.2024 and on 31.01.2024, an order was passed by the learned Judicial Magistrate, Tenkasi. Even though the learned Counsel for the first Petitioner sought copies of the typed set of papers for his response, the learned Judicial Magistrate had passed orders in spite of the same, which resulted in filing of the Petition to transfer C.M.P(MD)No.1990 of 2024, wherein, the orders passed by the learned Judicial Magistrate, Tenkasi was stayed on 08.02.2024. Only after that, the two complaints had been registered with the third Respondent.

8. Mr. R. Gandhi, learned Senior Counsel appearing for the fourth Respondent/*defacto* Complainant submits that the fourth Respondent's father was a senior member of the Bar in Tenkasi District. The case as stated by the Petitioners is not true. The husband of the *defacto* Complainant had ill-treated the *defacto* Complainant for dowry. The parents of the husband



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arranged marriage for the husband of the *defacto* Complainant with another girl. Since the fourth Respondent faced harassment in the hands of the husband and in laws, her father, who is the senior member of the Bar, gave a complaint to the Inspector General of Police, South Zone, which was forwarded to the first Respondent/Superintendent of Police, from whom the complaint was referred to the third Respondent/the Inspector of Police, Kadayanallur Police Station. The third Respondent had conducted an enquiry. Only after finding that the accused had indulged in the acts mentioned against them, the third Respondent had proceeded with the investigation. The in laws made false allegations, as though the *defacto* Complainant was having love affair prior to her marriage with one Mujeeb Rahman, which was made only to tarnish the name of the fourth Respondent/*defacto* Complainant and her family members. The reputation of the *defacto* Complainant and her father, who is a senior member of the Bar of Tenkasi District, had been damaged by the conduct of the Petitioners. Therefore, it was the *defacto* Complainant, who on her own version preferred the complaint to the Respondents 1 to 3.



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9.The learned Senior Counsel appearing for the fourth Respondent relied on the ruling of this Court in ***Dorand and others Vs. The Superintendent of Police, Nagercoil and another*** reported in ***2016 (2) CTC 286***, thereby sought for dismissal of this Petition. He had also submitted that there had been whatsapp messages between the *defacto* Complainant and her husband, in which the first Petitioner is alleged to have used abusive words as messages to the fourth Respondent, to which the fourth Respondent had not at all used any abusive words against the first accused. He also relied on the order passed by the learned Judicial Magistrate, Tenkasi in Cr.M.P.No.828 of 2024 in DVOP.No.4 of 2024.

10.On consideration of the rival submissions of the learned Counsel for the Petitioners, learned Government Advocate (Crl.side) for the Respondents 1 to 3 and the learned Senior Counsel for the fourth Respondent, the submission of the learned Counsel for the Petitioner cannot at be accepted, considering the nature of the allegations levelled by the defacto Complainant in the complaint. The Petitioner is duty bound to appear before the Investigation Officer as per the reported ruling of the Hon'ble Supreme Court in ***Lalita Kumari Vs. Government of Uttar***



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Pradesh and others reported in ***(2014) 2 Supreme Court Cases 1*** to co-operate with the pending enquiry.

11.In the light of the above and in the light of the pending FIR in Crime No.63 of 2024, the submission of the learned Counsel for the Petitioners seeking not to harass the Petitioners cannot be granted. At the same time, in ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** reported in ***(2014) 2 Supreme Court Cases 1*** and in ***Arnesh Kumar Vs. State of Bihar and another*** reported in ***2014 (8) SCC 273***, the Hon'ble Supreme Court had held that in cases, which attracts imprisonment up to 7 years, the accused need not be arrested. The Investigation Officer shall issue summons under Section 41-A of Cr.P.C., Therefore, the Respondents 1 to 3 are directed to issue summons under Section 41-A of Cr.P.C., to the *defacto* Complainant and the accused specifying the time and date for their appearance before the Investigation Officer. The Investigation Officer shall not summon them at odd hours. Considering the dispute as matrimonial dispute, the Investigation Officer is directed to follow the guidelines of the Hon'ble Supreme Court issued in the case in ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** reported in ***(2014) 2 Supreme***



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Court Cases 1 and the case in ***Arnesh Kumar Vs. State of Bihar and another*** reported in ***2014 (8) SCC 273***.

In the result, ***this Criminal Original Petition is disposed of.***

Internet :Yes./No
Index :Yes/No
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26.03.2024

To

- 1.The Superintendent of Police,
Thenkasi District,
Thenkasi.
- 2.The Additional Superintendent of Police,
Thenkasi District,
Thenkasi.
- 3.The Inspector of Police,
Kadayanallur Police Station,
Thenkasi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
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