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CrI.O.P.(MD)No.5825 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.5825 of 2022
and
CrI.M.P(MD).No.4117 of 2022

1.Kiruthiga

2.Deivanayagam

... Petitioners

Vs.

1.State by Inspector of Police,
Thallakulam All Women Police Station,
Madurai City.

2.Shanmuga Akshaya

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the Crime No.58 of 2021 on the file of the first respondent police and quash the same as far as the petitioners are concerned.

For petitioner : Mr.R.L.Dhilipan Pandian
For R1 : Mr.B.Nambiselvan
Additional Public Prosecutor



ORDER

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This petition has been filed to call for the records relating to the Crime No.58 of 2021 on the file of the first respondent police and quash the same.

2. The first petitioner is the sister-in-law of the defacto complainant and the second petitioner is the husband of the first petitioner.

3. The marriage was performed between the first accused and the defacto complainant/second respondent on 15.02.2021, within 10 days from the date of marriage, the petitioners along with the other accused demanded additional dowry and also harassed the defacto complainant. Therefore, the defacto complainant lodged a complainant before the first respondent police and the same was registered in Crime No.58 of 2021.

4. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they are falsely implicated in this case. He further submitted that with an intention to harass the petitioners, the petitioner lodged a complaint against this petitioners and also



submitted that the petitioners are living far away from the defacto complainant's matrimonial home.

5. The learned Additional Public Prosecutor appearing for the first respondent police submitted that in this case, investigation is almost completed by the first respondent police.

6. Though, the name of the defacto complainant was printed in the cause list, there is no representation on behalf of her.

7. A perusal of records shows that some serious allegations are made against the first petitioner and there was no specific allegation against the second petitioner.

8. At this juncture, the learned counsel for the petitioner seeks permission of this Court to withdraw the petition as against the first petitioner is concerned.

9. Only two allegations are made against the second petitioner in the FIR and one is that the second petitioner forced the defacto complainant along with the other accused to sign the divorce papers and



the another allegation is that he told the defacto complainant that his wife/first petitioner decision will be abide by the family members and except that no serious allegation was made against the second petitioners.

10. The learned counsel for the petitioner has relied upon *the Judgment of Hon'ble Supreme Court reported in 2022 Livelaw (SC) 141 in the case of Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others* and the relevant paragraphs are extracted as follows :

“ 18. The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concern over the misuse of Section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.



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19. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, it is revealed that general allegations are levelled against the Appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the Appellants herein, i.e., none of the Appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."

11. Considering the facts and the circumstances of this case and also the fact that no specific allegation was made against the second petitioner, therefore, this Court is inclined to allow this petition against the second petitioner alone. Accordingly, this criminal Original Petition is allowed as against the second petitioner alone and the request made by



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the learned counsel for the petitioners, this Criminal Original Petition is dismissed as withdrawn against the first petitioner. Consequently, the connected miscellaneous petitions is closed.

28.02.2024

Index : Yes/No
Internet : Yes/No
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To

1. Inspector of Police,
Thallakulam All Women Police Station,
Madurai City.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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