



CrI.O.P.(MD) No.4721 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.O.P (MD) No.4721 of 2023

and

CRL.M.P (MD) Nos.4150 and 4547 of 2023

1. Malathi

2. Arumuga Thevar

... Petitioners

Vs

1. The State represented by
The Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli District.
Cr.No.5/2021.

2. Subbulakshmi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the charge sheet in C.C.No. 2401/2022 on the file of the Learned Judicial Magistrate Court-III, Tirunelveli and quash the same.



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For Petitioners : Mr. Suresh Manickam S
For R1 : Mrs.Aasha
Government Advocate (Crl.Side)
For R2 : Mr.N.Tamilmani

ORDER

This criminal original petition is filed seeking to quash the charge sheet in C.C.No.2401 of 2022, pending on the file of the learner Judicial Magistrate No.3, Tirunelveli.

2.On perusal of the records, it can be seen that the case arises out of Crime No.5 of 2021, on the file of the All Woman Police Station, Tirunelveli Rural, was registered on the complaint of the daughter-in-law of the petitioners.

3.The case of the defacto complainant is that earlier, her husband and his parents had taken her jewels and sent her out of the matrimonial house. The husband and his parents were teasing her for being ugly and threatening that he would marry some other girl. In the said situation, the husband got married to the second accused and his parents also played a part in the



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marriage. When the defacto complainant visited her matrimonial house, the husband, his parents and the second wife, all of them hit the defacto complainant and caused physical torture. On the strength of the said allegations, the case in Crime No.5 of 2021, was registered for the offences under Sections 498(A), 417, 494, 294(b) and 506(1) IPC and Section 4 of TNPHW Act r/w Section 4 of Dowry Prohibition Act. After investigation, the charge sheet is laid, in which, the petitioners being the parents of the husband of the defacto complainant are arrayed as accused Nos.3 and 4. Moreover, the present petition is filed by the petitioners, who are accused Nos.3 and 4 seeking to quash the charge sheet.

4.Mr. S.Suresh Manikam, the learned Counsel appearing on behalf of the petitioner firstly would submit that there is absolutely no role which is played by the petitioners in the alleged second marriage. The allegations against the petitioners are very vague. Except the general allegations, there is no specific material that the petitioners only took away the jewels or that they performed the marriage of the first accused with the second accused. According to them, the entire case is fictitious, there was no second marriage at all and the allegations are absolutely false. Therefore, on the



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strength of the false allegation, if the entire family members are roped in the case, the Hon'ble Supreme Court in the judgment in ***Neelu Chopra and another Vs Bharti***, reported in ***(2010) 1 SCC***, has held that roping in the aged parents would amount to abuse of process of law. The learned Counsel would also further rely upon the judgment rendered in the case of ***Geeta Mehrotra and another vs. The State of Uttar Pradesh and others*** reported in ***2012 (10) SCC 741*** that a mere casual references of the name, without ascribing the specific role and overt act would not be enough to prosecute the family members. The learned counsel would further rely upon the judgment rendered in the case of ***Seenivasan Vs. the Sub Inspector of Police and another*** reported in ***2009 (8) SCC 642*** that such frivolous complaints should not be allowed to be continued and this court should interfere with it.

5.The learned Government Advocate (CrI.Side) would submit that the case has been duly investigated and on the strength of the materials only it is charge sheeted. The defacto complainant/L.W.1 had spoken about the acts committed by the petitioners and therefore, this is not a case for interference by this Court.



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6.Mr.N.Tamil Mani, the learned counsel appearing on behalf of the defacto complainant taking this Court through the relevant material, would submit that there are specific averments against the petitioners and the witnesses have spoken about the same. Therefore, he would submit that this court should not interfere.

7.I have considered the rival submissions made and perused the material records of the case.

8.On a perusal of the statement given by the defacto complainant and also the other witnesses, which was recorded under Section 161 Cr.P.C., it is seen that there are specific allegations as against the petitioners that they were involved in snatching away her gold jewels and also causing physical and mental cruelty on the defacto complainant.

9.The learned counsel for the petitioner would submit that the entire episode as to the second marriage itself is false.



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10.The question, whether the second marriage is true or false cannot be gone into in this quash petition. The truth or otherwise has to come out only during the trial. When the petitioners' son during the subsistence of the marriage is alleged to have been again married to the second accused and all of them living in the same roof, *prima facie* as per the averment made by the defacto complainant/wife, there are materials to proceed as against the petitioners also. It cannot be said that on bald allegations the family members are roped in.

11.Therefore, leaving it open for the petitioners to raise all the grounds at the time of the trial before the trial court, I am of the view that there is no ground for this Court to interfere in exercise of the power under Section 482 of the Code of Criminal Procedure to quash the case. Accordingly, with the above said liberty, the criminal original petition stands disposed of. consequently, the connected miscellaneous petitions are closed.

12.Considering the age of the petitioners, I'm of the view that their presence before the trial Court for all the hearings can be dispensed with,



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except the necessary hearings that may be insisted by the trial Court. The petitioners can be represented by a counsel on special vakalat for all the hearings, except the hearings which are insisted by the trial Court.

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NCC : Yes/No
Internet: Yes/No
Index: Yes/No
LR

To
1.The Judicial MagistrateNo.III,
Tirunelveli.

2.The Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

LR

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