



Crl.O.P.(MD) No.5657 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.5657 of 2021

and

Crl.M.P.(MD) Nos.3257 & 3258 of 2021

1.P.Suresh Kumar

2.Rajam

... Petitioners

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Cantonment, Tiruchirappalli,
Tiruchirappalli District.
(Crime No.15 of 2020)

2.Asha

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the charge sheet in C.C.No.96 of 2021 on the file of the Judicial Magistrate/Additional Mahila Court, Tiruchirappalli and quash the same as against the petitioners herein.

For Petitioners : Mr.K.Veilmuthu



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For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

For R2 : No appearance

ORDER

Seeking to quash the final report in C.C.No.96 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Tiruchirapalli, the present Criminal Original Petition is filed by A3 and A4.

2. The case of the prosecution is that the second respondent (*de facto* complainant) married one Prakash (A1), S/o.Late S.Paramasivam on 24.02.2019 in the presence of the elders at Murguan Temple, Vayaloor. This is the second marriage for both of them. After the marriage, the couple were residing at Kailash Nagar, Kattoor for about 8 months. Subsequently, they started residing in the upstairs portion of the house of her mother-in-law (A2) i.e., A1's mother at Avvaiyar Street, Subramaniapuram. According to the *de facto* complainant, her mother-in-law used to pick up quarrel with her and demanded to bring more dowry from her parents. Her husband (A1) on his part also used to talk with



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another woman throughout the night. When the *de facto* complainant confronted him, he slapped her on her cheek. He also used to bring his children born through his first wife to their house. Though the *de facto* complainant was employed in a private concern, she was compelled by her husband to resign her job. However, her husband and her mother-in-law used to treat her cruelly. They also asked her to go out of the house.

3. The case of the prosecution against the present petitioners who are A1's brother Suresh (A3) and his wife Rajam (A4) are that they ill advised the *de facto* complainant's husband (A1) causing misunderstanding between him and his wife.

4. Since the *de facto* complainant was unable to bear the torture meted out to her at the hands of her husband and her in-laws, she lodged a complaint with the Sub-Inspector of Police, All Women Police Station-Cantonment, Trichy City on 24.07.2020 and the same was registered as FIR in Crime No.15/2020 against 4 accused namely, Prakash, Banumathi, Suresh Kumar (1st petitioner) and Rajam (2nd petitioner) for the offences punishable under Sections 498(A) and 406 of IPC. The Inspector of Police after conducting investigation filed a final report in C.C.No.96 of 2021



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before the Judicial Magistrate, Additional Mahila Court, Tiruchirapalli

against all the 4 accused for the following offences:

<i>Accused</i>	<i>Offences</i>
A1-Prakash	Sec.498 and 406 of IPC r/w. Sec. 4 of Dowry Prohibition Act, 1961
A2-Banumathi	Sec.498 of IPC r/w. Sec. 4 of Dowry Prohibition Act, 1961
A3-Suresh Kumar (1 st Petitioner)	Sec.498 r/w. 109 of IPC
A4-Rajam (2 nd Petitioner)	

5. Mr.K.Veilmuthu, learned counsel for the petitioner would contend that the petitioners are residing at Chennai and they are not at all connected with the alleged commission of offences as projected by the *de facto* complainant. His further contention is that even in the final report, the only allegation made against the present petitioners is that both of them ill advised A1, husband of the *de facto* complainant, to not have any marital life with the *de facto* complainant. According him, this itself would not constitute offences punishable under Section 498 A read with 109 of IPC. The petitioners did not demand dowry from the *de facto* complainant and in the circumstances, the final report against the present petitioners is liable to be quashed.



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6. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) appearing for the first respondent police would contend that the police after conducting proper investigation filed the final report and therefore, there is no valid ground to quash the same. He therefore prayed for dismissal of the present Criminal Original Petition.

7. Though the *de facto* complainant was served with notice and her name was printed in the cause list, she has not appeared before this Court either in person or through her counsel.

8. The offences against the present petitioners are punishable under Sections 498 read with 109 of IPC. As rightly pointed out by the learned counsel for the petitioners, the only allegation made against the present petitioners (A3 & A4) is that they ill advised A1 (husband of the *de facto* complainant) causing misunderstanding between the couple. Nowhere, it is stated that they demanded dowry and therefore, it would be a futile exercise to direct the present petitioners to face the ordeal of trial. In the circumstances, the final report in C.C.No.96 of 2021 on the file of the Judicial Magistrate, Additional Mahila Court, Trichirapalli is quashed as far as the present petitioners (A3 and A4) are concerned.



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WEB COPY 9. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected Miscellaneous Petitions are closed.

27.03.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To

- 1.The Judicial Magistrate,
Additional Mahila Court,
Tiruchirappalli,
Tiruchirappalli District.
- 2.The Inspector of Police,
All Women Police Station,
Cantonment, Tiruchirappalli,
Tiruchirappalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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