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CrI.O.P.(MD)No.7444 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.7444 of 2022

and

CrI.M.P.(MD).Nos.5058 & 11712 of 2022

1.S.Santhiya

2.R.Aswinmukesh

... Petitioners

Vs.

1.The State through
The Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli District.
(Crime No.2 of 2022)

2.Vinitha Kumari

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the First Information Report in Crime No.2 of 2022 on the file of the Inspector of Police, All Women Police Station, Tirunelveli Rural, as against the petitioners herein.

For petitioners

: Mr.Anandhapadmanabhan,
Senior Counsel
for Mr.K.Suyambulinga Bharathi
: Mr.S.Manikandan,
Government Advocate
(Criminal Side)

For R-1

For R-2

: Mr.S.Ramasamy



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ORDER

This petition has been filed seeking to quash the First Information Report in Crime No.2 of 2022 on the file of the first respondent Police, insofar as the petitioners are concerned.

2. The case of the prosecution is that there was a matrimonial dispute between the first petitioner and the second respondent / *defacto* complainant, due to which, the petitioners said to have harassed the second respondent / *defacto* complainant. Hence, the *defacto* complainant made a complaint before the respondent Police and the respondent Police has registered a case in Crime No.2 of 2022 for the alleged offence punishable under Section 4 of Dowry Prohibition Act r/w Sections 406 and 498(A) IPC.

3. The learned Senior counsel appearing for the petitioners would submit that the first petitioner is the sister-in-law of the de-facto complainant; the second petitioner is the husband of the first petitioner. The marriage between the de-facto complainant and her husband was solemnized in the year 2019, which was an arranged marriage. He would further submit that the parents of the first petitioner have not demanded any dowry from the second respondent. However, they offered 40



sovereigns of gold jewels and they have also deposited a sum of Rs.7,00,000/- in the name of the second respondent. He would further submit that out of the wedlock, they were blessed with a baby boy on 01.03.2020. He would further submit that initially, the complaint was forwarded to the District Social Welfare Officer and the District Social Welfare Officer filed a report dated 25.09.2021 stating that there was no dowry harassment. However, it is submitted that the father of the second respondent, approached the Ministry of Social Welfare, again and the District Social Welfare Officer again filed a report dated 16.11.2021. However, in the said report, it is stated that the second respondent was subjected to cruelty by her husband and in-laws and pursuant to the same, FIR in Crime No.2 of 2022 came to be registered against the petitioners and others. He would further submit that FIR, which is filed based on the two contradictory reports is bad in law. He would further submit that the petitioners herein are Doctors and they are residing in Pondicherry and the first accused was living in his wife's home. He would further submit that the petitioners have never visited the house of the second respondent. He would further submit that the allegations made against the petitioners are vague and there are no material evidence to implicate the petitioners herein as accused in this case and hence, he prays for allowing this petition.



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4. Per contra, the learned counsel appearing for the second respondent would submit that the petitioners herein have not only demanded a sum of Rs.20,00,000/- but also attacked the second respondent. He would further submit that it is the duty of the respondent Police to conduct a fair investigation in this case and useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*** .

5. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and hence, he prays for dismissal of this petition.

6. In the present case, admittedly, there was a matrimonial dispute between the first petitioner's brother and the second respondent, for which, the petitioners herein were also implicated and arrayed as Accused Nos.4 and 5. At the time of marriage, the parents of the second respondent have given 200 sovereigns of gold ornaments and 90 sovereigns of gold, which were subsequently obtained from the first petitioner. Pending complaint, husband of the 2nd respondent has filed a petition for restitution of conjugal rights in H.M.O.P.No.102 of 2021



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before the Sub Court, Sivakasi. When it is the case of the petitioners that they have never visited the house of the second respondent, it is seen that the complaint itself was given in order to implicate the petitioners, merely because, they seem to be the sister-in-law and her husband. It is also to be borne in mind that there are two contradictory reports filed by the Social Welfare Officer at the instance of the father of the second respondent. Thus, there is no substance at all to implicate the petitioners and there are no materials whatsoever produced by the 2nd respondent to come to the conclusion that the jewels belong to her were obtained from the first petitioner. For the reasons stated hereinabove, First Information Report in Crime No.2 of 2022 has no legs to stand.

7. Accordingly, the criminal original petition is allowed and the case in Crime No.2/2022 is quashed insofar as the petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

21.02.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

TSG / RR

To

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



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

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M.DHANDAPANI. J.

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