



Crl.O.P.(MD) No.6124 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

CORAM

**THE HON'BLE MRS.JUSTICE R.HEMALATHA**

**Crl.O.P.(MD) No.6124 of 2021**

**and**

**Crl.M.P.(MD)Nos.3521 & 3522 of 2021**

1. Jayabharathi
2. Kaliyappan
3. Govindhammal

... Petitioners

Vs.

1. The Inspector of Police,  
All Women Police Station,  
Keelakkarai,  
Ramanathapuram District.  
(Crime No.9 of 2019)

2. Dhanalakshmi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the final report in P.R.C.No.80 of 2020 on the file of Judicial Magistrate No.I, Ramanathapuram and quash the same as illegal.

For Petitioner : Mr.A.Mohan

For R-1 : Mr.M.Sakthi Kumar  
Government Advocate (Crl.side)

For R-2 : No appearance



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## **ORDER**

This Criminal Original Petition is filed by the petitioner seeking to quash the final report in P.R.C.No.80 of 2020 (S.C.No.79 of 2023) on the file of the Judicial Magistrate No.I, Ramanathapuram.

2. The case of the prosecution in a nut shell is as follows:

The second respondent/defacto complainant and the first petitioner, residents of Pookaranenthal Village were in love with each other. The contention of the second respondent/defacto complainant is that during december 2018, the petitioner came down to her house and forcibly had sexual intercourse with her promising to marry her. Thereafter, the second respondent/defacto complainant became pregnant and she was forced to inform her parents about her love affair with the first petitioner. When the parents of the second respondent/defacto complainant approached the parents of the first petitioner, they demanded huge amount of cash dowry and also 20 sovereigns of gold jewels and the defacto complainant's family were unable to meet out the expectations of the petitioners as a result of which the first petitioner did not marry the



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second respondent/Defacto complainant. In this regard, the second respondent/defacto complainant lodged a complaint with the Inspector of Police, All Women Police Station, Keelakkarai against the petitioners which came to be registered as F.I.R in Crime No.9 of 2019 for the alleged offences punishable under Section 376(2)(n) I.P.C and Section 4 of Dowry Prohibition Act 1961 on 15.09.2019. At the time of registering the F.I.R, the second respondent/defacto complainant was pregnant for nine months and subsequently, she delivered a female child, who is now aged about four years.

3. Mr.A.Mohan, learned counsel appearing for the petitioners submitted that though the first petitioner and the second respondent/defacto complainant were in love with each other, he did not commit the offence of rape as alleged by the second respondent/defacto complainant. He also drew the attention of this Court to the DNA test report submitted by the Forensic Lab, Madurai which states that the present petitioner is excluded from paternity of the female child. Therefore, he contended that since the first petitioner is not the father of the child, the final report should be quashed.



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4. Though notice was served on the second respondent/defacto complainant, there was no representation on behalf of the second respondent/defacto complainant and her name was printed in the cause list.

5. Mr.M.Sakthi Kumar, learned Government Advocate (Crl.side), on instructions, would contend that the police after conducting investigation has laid a final report in P.R.C.No.80 of 2020 and subsequently, the same was committed to the Court of Sessions in S.C.No.79 of 2023. According to him, there are no valid grounds to quash the final report and that the final report cannot be quashed on the basis of DNA test report.

6. A perusal of the F.I.R and the statements of the witnesses, especially the prosecutrix, *prima facie* shows the first petitioner had sexual intercourse forcibly on the promise of marrying her. Though the DNA test report excluded the present petitioner from the paternity of the female child, the same may not affect the present case, because the second respondent/defacto complainant's specific contention is that the first petitioner on the pretext of marrying her had sexual intercourse with her.



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It is also contented that when the parents of the second respondent/defacto complainant approached the parents of the first petitioner i.e., petitioners 2 and 3 with a marriage proposal, the latter demanded heavy dowry for getting their son married to the second respondent/defacto complainant. The witnesses have also spoken about the entire facts before the police at the time of recording their statements under Section 161(3) Cr.P.C. All the records *prima facie* shows the commission of offences by the present petitioners punishable under Section 376(2)(n) I.P.C and Section 4 of Dowry Prohibition Act 1961. The truth or otherwise of the allegations made in the final report and the present petitioners can be decided only after full trial and I do not see any reason to quash the final report on the grounds raised by the present petitioners.

8. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Index: Yes/ No  
Neutral Citation: Yes / No  
Speaking Order / Non-Speaking Order  
jbr

30.01.2024



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**R.HEMALATHA, J.**

jbr

To

1. The Inspector of Police,  
All Women Police Station,  
Keelakkarai,  
Ramanathapuram District.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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