



Crl.O.P(MD).No.11299 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.11299 of 2020 and
Crl.M.P(MD).Nos.5155, 5156 of 2020 and
Crl.M.P(MD).No.1278 of 2021

1.Johni Kennady
2.Vasanth Kumary
3.Joselin Vimal
4.Anish
5.Theresammal
6.Ponnaiyan

... Petitioners/ Accused Nos.2 to 7

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.
(Crime No.36 of 2019)

.. 1st respondent / complainant

2.R. Viji

.. 2nd respondent / defacto complainant

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.607 of 2019 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, pertaining to the charge sheet filed by the 1st respondent in Crime No.36 of 2019 and quash the same in so far as the petitioners / A2 to A7 are concerned.



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For Petitioners : Mr.M. Saravanan
For respondent No.1 : Mr.S.E. Veronica Vincent
Government Advocate
For 2nd respondent : Mr.G. Aravinthan

ORDER

This criminal original petition has been filed to call for the records in C.C.No.607 of 2019 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, pertaining to the charge sheet filed by the 1st respondent in Crime No.36 of 2019 and quash the same in so far as the petitioners / A2 to A7 are concerned.

2. The case of the prosecution is that the marriage between A1 and the defacto complainant was solemnized on 19.10.2018. Thereafter, the petitioners herein, who are the family members of A1, have harassed the defacto complainant by demanding additional dowry and also assaulted her and pulled her tuft and dragged her out of the house. Hence, a case has been registered against the petitioners in Crime No.36 of 2019 on the file of the first respondent police and subsequently, charge sheeted in C.C.No.607 of 2019 for the offence under Sections 3, 4 and 6 of Dowry Prohibition Act,, 1961 and Sections



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406, 498(A) and 506(i) IPC on the file of the learned Judicial Magistrate No.I, Padmanabhapuram. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioners submitted that there was a matrimonial dispute between A1 and the defacto complainant and that the defacto complainant has roped the petitioners herein, who are the family members of A1 as accused. He further submitted that already this petition was “dismissed as withdrawn” as against the petitioners 5 and 6, on 14.10.2020 and this Court has also dispensed with the personal appearance of the said petitioners 5 and 6 before the trial Court. He further contended that there is no specific allegations made against the petitioners 1 to 4 and he prays for allowing this petition.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and



hence, he prayed for dismissal of the petition.

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5. The learned counsel appearing for the second respondent submitted that the petitioners herein have harassed the defacto complainant both mentally and cruelly and also demanded additional dowry from her and hence, he prayed to dismiss the present petition.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

8. In the above circumstances and also considering the fact that there is a specific overt act attributed against the petitioners, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the above said petitioners if



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they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. The petitioners cannot be let by quashing the charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against them.

9. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.607 of 2019 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

10. At this juncture, the learned counsel appearing for the petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court and also seeks early disposal of the above said case.

11. Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of the petitioners is dispensed with before the trial Court with the following conditions:-



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i)The personal appearance of the petitioners is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C., and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. Further, the trial Court is directed to dispose the above said case in C.C.No.607 of 2019, within a period of six months from the date of receipt of a copy of this order.

14.06.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

trp

To

1. The learned Judicial Magistrate No.I, Padmanabhapuram,

2. The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.

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



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A.A.NAKKIRAN, J.

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