



Crl.O.P.(MD)No.11943 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.11943 of 2022

and

Crl.M.P(MD) Nos.7549 and 7552 of 2022

1. Mohammed Fargan
2. Fathima Nooh
3. Mohammed Nooh
4. Mohammed Barseen ... Petitioners/Accused Nos.1 to 4

Vs.

- 1.The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District. ...1st Respondent/Complainant
2. Sumaiya Beevi ...2nd Respondent/Defacto Complainant

Prayer: The Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceeding in C.C.No.425 of 2020 on the file of the learned Judicial Magistrate No.I, Kuzhithurai in so far as the Petitioners are concern.



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For Petitioners

: Mr.Maheswaran R

For R1

: Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.425 of 2020 pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

2.The case of the prosecution is that the marriage between the first petitioner and the second respondent was performed on 27.08.2015 in the presence of elders as per the Muslim customary rites. Before the marriage, on demand, the second respondent's parents agreed to offer 150 sovereigns of gold and a car to the second respondent. At that time of marriage, they offered 100 sovereigns of gold and Rs.7,00,000/- as cash as dowry. Thereafter, the second respondent was taken to Abu Dabi, where the first petitioner got an opportunity to work. The first petitioner did not permit the second respondent to work in Abu Dabi. On 12.06.2016, the second respondent was sent to India.



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Thereafter, the petitioner Nos.2 to 4 harassed the second respondent demanding the agreed balance dowry that is 50 sovereigns of gold and a car. While so, the second respondent was diagnosed with cancer and the petitioners did not give proper treatment to her. On 06.08.2018, the second respondent blessed with a male baby. Thereafter also, the petitioners harassed the second respondent continuously and unable to tolerate the same, the second respondent went to her parental home. Hence, the second respondent made a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.57 of 2019 against the petitioners and the respondent Police conducted the investigation and on completion of investigation, the charge sheet has been filed before the learned Judicial Magistrate No.I, Kuzhithurai and the learned Judicial Magistrate has taken cognizance in C.C.No.425 of 2020 for the alleged offence punishable under Sections 498(A), 406 of IPC and Sections 3(1), 4 & 6 of Tamil Nadu Dowry Prohibition Act, 1961.



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3.The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioners. Further, the first petitioner is the husband, second petitioner is the mother-in-law, third petitioner is the father-in-law and the fourth petitioner is the sister-in-law of the second respondent. The petitioners did not demand dowry at any point of time from the second respondent. If the dowry offered by the second respondent's parents as stated by the second respondent in her complaint, the same would have been reflected in the Nikkah Deed maintained in the Jamath. Totally it is the false allegations made against the petitioners. Hence, he prays to allow this petition.

4.The learned Government Advocate (Crl. Side) would submit 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.In the above circumstances, 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 petitioners, if 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 charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. 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)*.

6.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.425 of 2020 pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7.At this juncture, the learned counsel appearing for the petitioners would submit that this Court may consider to dispense with



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the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court 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.

15.03.2024

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

Indu

To:

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

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M.DHANDAPANI,J.

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