



Crl.O.P.(MD) No.11444 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.02.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.11444 of 2021

and

Crl.M.P.(MD) Nos.5822 & 5843 of 2021

1.J.Episiba Maheswari

2.K.Jeba Jeevan

... Petitioners / Accused Nos.6 & 7

Vs.

1.The Inspector of Police,
All Women Police Station,
Thallakulam, Madurai City,
Madurai District.
Crime No.486/2020

... 1st Respondent / Complainant

2.Merlin Selvarani

... 2nd Respondent / Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the case in C.C.No.511 of 2020, pending on the file of the Additional Mahila Court, Madurai and quash the same.

For Petitioners : Mr.KA.Raamakrishnan

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

For R2 : Mr.K.Samidurai



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ORDER

The present Criminal Original Petition is filed by the petitioners seeking to quash the final report, in C.C.No.511 of 2020, pending on the file of the Additional Mahila Court, Madurai.

2. The case of the prosecution, in a nutshell, is as follows:

The marriage between the first accused and the defacto complainant was solemnized on 27.12.2018 at C.S.I.John's Church, as per Christian Marriage and Divorce Act, 1957. After their marriage, the first accused and the defacto complainant were residing in Chennai. The case of the defacto complainant is that her in-laws suspected her fidelity and also took 35 sovereigns of gold jewels belonging to her. They further demanded 10 sovereigns of gold and a sum of Rs.50,000/- from her and in this regard, they used to pick up a quarrel with her. On several occasions, they tortured her by beating and also abused her in filthy language in the presence of general public. On 25.02.2019, the present petitioners, who are residing in Tuticorin, were called by her in-laws to Chennai and accordingly, on 25.02.2019, they came down to Chennai and took the defacto complainant forcibly in a car and dropped her in her parental



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home at Madurai. The defacto complainant thereafter lodged a complaint with the Inspector of Police, All Women Police Station, Thallakulam, Madurai, which came to be registered as F.I.R in Crime No.30 of 2019 against the accused Nos.1 to 7, for the alleged offences punishable under Sections 498-A and 406 I.P.C. After concluding investigation, a final report in C.C.No.511 of 2020 was filed against the accused for the alleged offences punishable under Sections 498-A, 294 (b), 403 and 34 I.P.C.

3. Mr.Ka.Raamakrishnan, learned counsel appearing for the petitioners would contend that the petitioners / Accused 6 and 7 are residents of Tuticorin and there are no specific allegations against them, either in the F.I.R or in the final report. He drew the attention of this Court to the First Information Report registered by the police on 03.08.2019, wherein the defacto complainant had stated that she was forcibly taken in a car from Chennai and was dropped in her parental house at Madurai by Accused Nos.6 and 7. Except this allegation, nothing is mentioned in the F.I.R. It is also his contention that in the 161 (3) Cr.P.C statement of the defacto complainant, it is stated that the accused at the instigation of the petitioners (Accused Nos. 6 and 7) abused her in filthy language, suspected her fidelity and forcibly took her in a car and dropped her at



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Madurai. According to him, the real dispute is between the first accused and the defacto complainant and they are residing in Chennai separately.

When the present petitioners are residing in Tuticorin, there is no reason for the police to file a final report against them and that too, for the offences punishable under Sections 498-A, 294 (b), 403 and 34 I.P.C.

4. Per contra, Mr.K.Samidurai, learned counsel for the defacto complainant would contend that the present petitioners instigated the accused to beat the defacto complainant and also forcibly took her in a car from Chennai to Madurai. He therefore contended that there are specific overt acts as against the present petitioners and therefore, there is no reason for this Court to quash the final report.

5. It is true that in the First Information Report, there are no specific allegations against the present petitioners. The only allegation made against them is that they took her forcibly in a car on 25.02.2019 and dropped her at Madurai. The defacto complainant had not stated in her complaint as to how she was threatened by the present petitioners and the allegations in this regard in her complaint are very vague. In the 161 (3) Cr.P.C statement, the present defacto complainant had stated that the



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petitioners had instigated the other accused to beat her and also suspected her fidelity. This has not been emphasized clearly in the final report.

6. It is brought to the notice of this Court that initially, the driver of the car, who drove the car from Chennai to Madurai was also made as Accused No.8 and subsequently, his name was deleted. The contention of the learned counsel for the defacto complainant is that since two male members were present inside the car, the defacto complainant could not resist them on account of fear. This contention of the counsel cannot be accepted, because it is not the case of the defacto complainant that the car was not stopped anywhere between Chennai and Madurai. The distance between Chennai and Madurai is 460 Kilometers and there are several tolls between the two places and the driver would have stopped the vehicle atleast for payment of toll. Therefore, it cannot be contended that she was taken in the car under threat. It is not also the case of the defacto complainant that the car took altogether a different route where she cannot seek help from others.

7. In the above facts and circumstances, the final report filed against the present petitioners is liable to be quashed.



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8. Accordingly, this Criminal Original Petition is allowed and the final report, in C.C.No.511 of 2020, pending on the file of the Additional Mahila Court, Madurai, Madurai District, is hereby quashed insofar as the petitioners herein are concerned. Consequently, connected miscellaneous petitions are closed.

07.02.2024

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

To

- 1.The Additional Mahila Court,
Madurai, Madurai District.
- 2.The Inspector of Police,
All Women Police Station,
Thallakulam, Madurai City,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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