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Crl.O.P.(MD)No.12103 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.12103 of 2022
and
Crl.M.P.(MD).Nos.7649 & 7650 of 2022

1.Sicili

2.Soosan Siji

3.Jobin

... Petitioners

Vs.

1.State represented by
the Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
Crime No.2 of 2020

2.Arunthathi Malar

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with the charge sheet in C.C.No.101 of 2021 on the file of the learned Judicial Magistrate, Eraniel and quash the same as against the petitioners.

For petitioners

: Mr.R.Russel Raj

For R-1

: Mr.S.Manikandan,
Government Advocate
(Criminal Side)



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.101 of 2021 on the file of the learned Judicial Magistrate, Eraniel, insofar as the petitioners are concerned.

2. The case of the prosecution is that the first petitioner is the mother-in-law of the second respondent and the second and third petitioners are brothers of the second respondent's husband. It is alleged that the petitioners threatened the second respondent and demanded dowry from her. Hence, the second respondent Police made a complaint before the first respondent Police and the first respondent Police has registered a case in Crime No.2 of 2020 for the alleged offence punishable under Sections 3(1), 4 and 6 of the Dowry Prohibition Act, 1951 r/w Sections 406, 420 and 498(A) IPC. Thereafter, the first respondent has conducted investigation and after completing investigation, they filed a charge sheet before the learned Judicial Magistrate, Eraniel and the same was taken on file in C.C.No.101 of 2021. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioners and there is no specific allegation as against the petitioners.



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4. The learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

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 the proceedings in C.C.No.101 of 2021 on the file of the Judicial Magistrate, Eraniel. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.



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

12.03.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1. The Judicial Magistrate, Eraniel.
2. The Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

TSG

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