



Crl.O.P.(MD) No..12423 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

CRL.O.P (MD) No.12423 of 2020
and Crl.M.P(MD)Nos.5606 and 5609 of 2020

1.Ramesh
2.Poomayil
3.Parimala Devi

...Petitioners/Accused 1 to 3
vs.

1.State
Rep.by Inspector of Police,
Karikudi North Police Station,
Karaikudi,
Sivagangai District
(Crime No.212 of 2019)

...1st Respondent/Complainant

2.Manimegalai

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records relating to C.C.No.187 of 2020 pending on the file of the Principal District Munsif cum Judicial Magistrate Court, Karaikudi and quash the same.

For Petitioners : M/s.Kalaiyarasi Bharathi

For R1 : Mr.E.Antony Shaya Prabahar
Additional Public Prosecutor

For R2 : Mr.D.Venkatesh



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ORDER

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This Criminal Original Petition is filed to quash C.C.No.187 of 2020 pending on the file of the Principal District Munsif cum Judicial Magistrate Court, Karaikudi.

2. According to the petitioner, the marriage between the 1st accused and the defacto complainant's daughter Usharani was performed on 07.11.2011 and thereafter, she has committed suicide and in furtherance thereof, First Information Report has been registered under Section 174 Cr.P.C and the same was closed as "further action dropped". According to the petitioner, on 26.05.2019, after the death of the defacto complainant's daughter, when the defacto complainant demanded srithana articles from the accused herein, there was a wordy quarrel. In pursuance thereof, First Information Report in Crime No.212 of 2019 was registered for the offences under Sections 294(b), 323, 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3. The learned counsel appearing for the petitioners would submit that there is no specific overt act against the accused and the very filing of the



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complaint is nothing but abuse of process of law and he prayed to quash the case in C.C.No.187 of 2020.

4. Per contra, the learned Additional Public Prosecutor appearing for the 1st respondent State would submit that in the statement given by the witnesses, there are specific overt acts spoken by the witnesses. He would further submit that while exercising jurisdiction under Section 482 Cr.P.C, this Court may not go into the merits of the case and he prayed for dismissal of this petition, which submission is further reiterated by the learned counsel for the 2nd respondent.

5. Heard the learned counsel for the petitioners, the learned Additional Public Prosecutor appearing for the State and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6. Before going into the merits of the case, it is relevant to refer the judgment of the Hon'ble Supreme Court of India passed in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, reported in 2019 (4)



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SCC 351 as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

7. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, reported in **2019 (10) SCC 686** wherein, it has been held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior



counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C. 20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

8. Further the Hon'ble Supreme Court of India also held in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, reported in **2019 SCC online SC 2058** as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge,



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the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

As per the above ratio, while exercising jurisdiction under Section 482 Cr.P.C, this Court cannot go into the minute details of the prosecution case and the defence put forth by the accused and cannot give any finding in respect of the respective merits of the defence.

9. Therefore, this Court is of the firm view that there is no merit in this petition.



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10. At this juncture, the learned counsel for the petitioners would submit that the 1st petitioner is working as the Postal Assistant, the 2nd petitioner is a senior citizen and the 3rd petitioner is a lady, who is living separately and hence, their presence may be dispensed with before the trial court.

11. Considering the submissions made by the learned counsel for the petitioners, the presence of petitioners is dispensed with before the trial court except when their presence is specifically directed by the trial court, and during the service of copy, for questioning under Section 313 CR.P.C and while pronouncement of judgment.

12. With the above observation, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Internet:Yes./No
Index:Yes/No
CM

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To

1. Inspector of Police,
Karikudi North Police Station,
Karaikudi,
Sivagangai District
(Crime No.212 of 2019)

2. The District Munsif cum Judicial Magistrate Court, Karaikudi

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



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C.KUMARAPPAN, J.

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