



Crl.O.P.(MD)No.14234 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **07.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD)No.14234 of 2022
and Crl.M.P(MD).No.9156 of 2022

Denvar

... Petitioner

Vs.

1.The State rep.by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
Crime No.15 of 2021.

2.Muthaiyan

3.Renipravin Joy

...Respondents

*(*R3 is suo motu impleaded as per the order of this Court dated 31.10.2023 made in Crl.O.P(MD).No.14234 of 2022*)*

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.26 of 2022 pending on the file of the Additional Mahila Court (Magistrate Level), Nagercoil and quash the same against the petitioner herein.

For petitioner

: Mr.P.Karthick

For Respondents

: Mr.P.Kottaichamy
Government Advocate (Crl.side)
for R1
Mr.J.Jeevin for R2



Crl.O.P.(MD)No.14234 of 2022

ORDER

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This Criminal Original Petition has been filed to call for the records in C.C.No.26 of 2022 pending on the file of the Additional Mahila Court (Magistrate Level), Nagercoil and quash the same against the petitioner herein.

2. The case of the prosecution is that the accused No.1 got married with the defacto complainant's daughter on 25.04.2016. Thereafter, the accused persons demanded dowry from the defacto complainant's daughter and harassed her. Hence, the complaint has been made by the defacto complainant, based on which, a case in Crime No.15 of 2021 was registered for the offence under Sections 498(A) and 406 IPC and Sections 5 and 6 of Dowry Prohibition Act, 1961 and Sections 66 C and 66 D of Information Technology Act, 2000 and after completion of investigation, the first respondent Police filed a charge sheet before the Additional Mahila Court (Magistrate Level), Nagercoil and the same was taken on file in C.C.No.26 of 2022, for the offence punishable under Sections 498(A), 406 and 506(1) IPC and Sections 5 and 6 of Dowry Prohibition Act, 1961.



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3. The learned counsel appearing for the petitioner submits that the petitioner is the brother of the accused No.1 and the accused No.1 got married with the defacto complainant's daughter in the year 2016 and the petitioner is not residing along with his father and the brother/accused No.1 and he is living separately. In fact, the defacto complainant himself had rented a house separately for his daughter and the accused No.1 and the defacto complainant's daughter had lived separately. There is no specific allegation against the petitioner in the complaint made by the defacto complainant. Hence, he prays for quashing of C.C.No.26 of 2022 pending on the file of the learned Additional Mahila Judge (Magistrate Level), Nagercoil.

4. The learned Government Advocate (Criminal side) appearing for the first respondent Police submits that a specific allegation has been made against the petitioner and the accused persons that the accused persons harassed the defacto complainant's daughter demanding dowry and it is a triable issue which can be decided only at the time of trial. Hence, he prays for dismissal of this petition.

5. A perusal of the charge sheet reveals that the accused persons demanded dowry from the defacto complainant's daughter and harassed



Crl.O.P.(MD)No.14234 of 2022

her. However, there is no specific overt act made against the petitioner in order to attract the offences under Sections 498(A), 406 and 506(i) IPC and Sections 5 and 6 of Dowry Prohibition Act, 1961. Moreover, the petitioner was not residing along with the accused No.1 and the defacto complainant's daughter and he is living separately. The petitioner being the brother of the accused No.1 has been roped in this case. There is no material available before the trial Court in order to rope the petitioner in this case as one of the accused persons. Hence, this Court is inclined to quash the proceedings in C.C.No.26 of 2022, pending on the file of the Additional Mahila Court (Magistrate Level), Nagercoil, insofar as the petitioner is concerned and accordingly, it is quashed.

6. In the result, this Criminal Original Petition is allowed.
Connected miscellaneous petition is closed.

07.03.2024

Index : Yes/No
Internet : Yes/No
ssb



Crl.O.P.(MD)No.14234 of 2022

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To

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



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Crl.O.P.(MD)No.14234 of 2022

M.DHANDAPANI. J.

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Crl.O.P.(MD)No.14234 of 2022

07.03.2024