



Crl.O.P(MD)No.15463 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 22.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.O.P(MD)No.15463 of 2020

and

Crl.M.P(MD)Nos.7527 and 7528 of 2020

1.Panchavarnam

2.Amutha

3.Kannan

... Petitioners/Accused 3to5

Vs.

State rep by

1.The Inspector of Police,
All Woman Police Station,
Virudhunagar District.
In Crime No.5/2018

...1st Respondent/Complainant

2.Dhanalakshmi

...2nd Respondent/De-facto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for records relating to the charge sheet in C.C.No. 245 of 2019 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same.



Crl.O.P(MD)No.15463 of 2020

For Petitioners : M/s.C.Susi Kumar
For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
For R2 : M/s.P.Malini

ORDER

The instant criminal original petition has been filed to quash the charge sheet in C.C.No.245 of 2019 on the file of the learned Judicial Magistrate No.II, Virudhunagar.

2.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

3.The learned counsel for the petitioners would submit that the first petitioner is the mother-in-law, the second petitioner is the sister-in-law of the de-facto complainant and the third petitioner is the husband of the second petitioner.

4.According to the petitioners, one Pandirajan is the son of the first petitioner and got married with the second respondent Dhanalakshmi. It appears



Crl.O.P(MD)No.15463 of 2020

that in furtherance to their marriage, there was a family dispute, which resulted in filing of an FIR in Crime No.5 of 2018, on 08.07.2018, with vague allegation against these petitioners for dowry harassment. The learned counsel further submits that in furtherance thereof, the respondent police have enquired into the matter and has also recorded the statement of the witnesses. On perusal of such statement, there are no specific overt act as against these petitioners and the alleged overt act mentioned in the said statement is very much vague and trivial and therefore, they pray to quash the charge sheet.

5.Per contra, the learned Additional Public Prosecutor has strongly objected the contention put-forth by the learned counsel for the petitioners and invited the attention of this Court to the statement of the second respondent herein that she has specifically alleged the overt act against these petitioners more particularly regarding demand of dowry. It was also contended by the learned Additional Public Prosecutor that the precedent relied upon by the learned counsel for the petitioners are not applicable to the facts of this case.



Crl.O.P(MD)No.15463 of 2020

6.The submission of the learned Additional Public Prosecutor has been endorsed and reiterated by the learned counsel for the second respondent.

7.Now the point for consideration is whether the charge sheet filed against the present petitioners is to be quashed or not.

8.In this regard, it is pertinent to mention here that while exercising the power under Section 482 Cr.P.C., this Court cannot go into the minute details and cannot decide upon the factual matter. It is pertinent to refer the judgment of the Hon'ble Supreme Court in ***Mahalakshmi & Ors.,-Vs-The State of Karnataka & Anr., in Crl.A.No.494 of 2023***. While perusing 161 Cr.P.C., statement of the second respondent qua the de-facto complainant she has specifically alleged about the demand of dowry implicating these petitioners. Therefore, as rightly contended by the learned Additional Public Prosecutor, there is a prima facie case exist against the petitioners herein.

At this juncture, the learned counsel for the petitioners has invited the attention of this Court in respect of the ruling in ***Abhishek-Vs-State of Madhya***



CrI.O.P(MD)No.15463 of 2020

Pradesh, reported in **2023 LiveLaw(SC) 731** and the relevant paragraph is extracted hereunder:

“17.In Bhajan Lal (supra), this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under Section 482 Cr.P.C. could be exercised. Para 102 of the decision reads as follows: ‘102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.



(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing



Crl.O.P(MD)No.15463 of 2020

efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.'

9.While perusing the above judgment, there are seven categories that have been enunciated in the said judgment, so as to exercise the power under Section 482 Cr.P.C. But while perusing the facts of this case, the case not come within the above seven categories. The learned counsel for the petitioners also relied upon the judgment in ***Mahalakshmi & Ors.,-Vs-The State of Karnataka & Anr., in Crl.A.No.494 of 2023***, where the facts of the referred case is altogether different. Wherein the petitioner/accused was a resident of Canada and had came to India only for a week. Only in that context, the Hon'ble Supreme Court had factually arrived at a conclusion that no charge has been made out against the accused mentioned therein.

10.This Court is of the firm view that since a prima facie case made out as against the petitioners herein, this Court do not want to go into the other



CrI.O.P(MD)No.15463 of 2020

facts of the charge sheet. Hence, this Criminal Original Petition is dismissed.

WEB COPY

11.On perusal of the records and also considering the age of the petitioners, the presence of the petitioners is dispensed with before the trial Court, except whenever they are called for by the trial Court, and for receiving the copy of the complaint, for questioning under Section 313 Cr.P.C, and while pronouncing the judgment. Consequently, connected miscellaneous petitions are also closed.

22.03.2024

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

Ns

To

- 1.The Judicial Magistrate No.II,
Virudhunagar.
- 2.The Inspector of Police,
All Woman Police Station,
Virudhunagar District.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P(MD)No.15463 of 2020

C.KUMARAPPAN,J.
Ns

Crl.O.P(MD)No.15463 of 2020
and
Crl.M.P(MD)Nos.7527 and 7528 of 2020

22.03.2024