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Crl.O.P.(MD).No.16971



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.16971 of 2022

and

Crl.M.P.(MD).Nos.11404 & 11405 of 2022

1.Rajendran

2.Kavitha

...Petitioners/Accused No.4 & 5

Vs.

1. The State rep. ??

The Inspector of Police,
All Women Police Station,
Kumbakonam,

Thanjavur District. (Crime No.10 of 2018) ...Respondent/Complainant

2.Akila

...2nd Respondent/De-facto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the proceeding in C.C.No. 39 of 2020 on the file of the learned Judicial Magistrate No.2, Kumbakonam, Thanjavur as against the petitioners.

For Petitioners : Mr.C.Suresh Kannan

For R1 : Mr.B.Thanga Aravindh,
Government Advocate(Crl.side)

For R2 : No appearance



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ORDER

This petition has been filed to quash the proceedings in C.C.No. 39 of 2020 on the file of the learned Judicial Magistrate No.2, Kumbakonam, Thanjavur.

2. The second respondent gave a complaint to the first respondent stating that she married Accused No.1 on 18.11.2023. Right from the beginning, there was a demand for dowry. The second respondent was treated with cruelty by Accused No.1 and other family members. That apart, she was abused in filthy language and also threatened with dire consequences. Based on this complaint, an FIR came to be registered in Crime No. 10 of 2018.

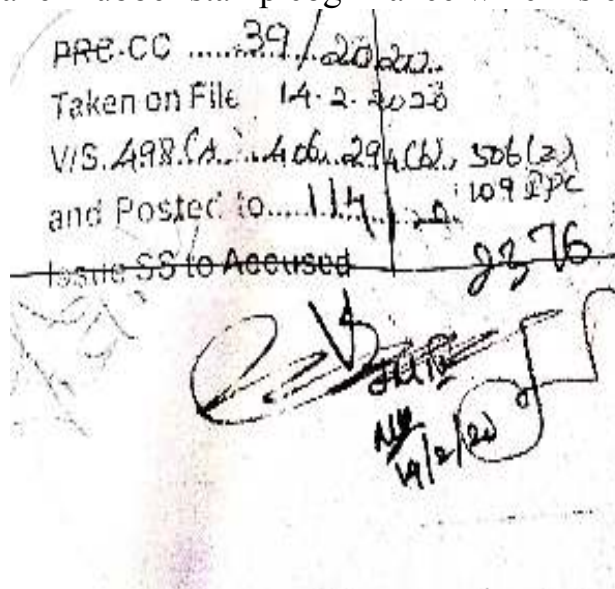
3. On completion of the investigation, the police report was filed before the learned Judicial Magistrate No.II, Kumbakonam, for the offence under Sections 498 (A), 406, 294(b), 506(2) and 109 of IPC as against five accused persons. The Court below took cognizance of the offence and issued process to the accused persons. Accused Nos.4 and 5, who are aggrieved by the same, have filed the present quash petition before this Court.



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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent. The second respondent has been served with notice and the name of the second respondent has been printed in the cause list and there is no appearance either in person or through counsel.

5. It is not necessary for this Court to go into the merits of this case, since the Court below has taken rubber stamp cognizance which is extracted hereunder:



6. This Court by relying upon the judgment of the Hon'ble Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court.



Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others*, reported in (2019) 3 MLJ (Crl) 339. The Apex Court also dealt with this issue in *S.K.Sinha, Chief Enforcement Officer International Ltd & Ors.*, reported in (2008) 1 SCC (Crl.) 471.

7. In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the learned Judicial Magistrate No.2, Kumbakonam, Thanjavur and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

12.12.2024

Index : Yes / No
Internet : Yes / No
Speaking Order/Non Speaking Order
TSG



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To

1.The Judicial Magistrate No.2, Kumbakonam, Thanjavur.

2.The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.

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



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N.ANAND VENKATESH, J.

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