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Crl.O.P(MD).No.20498 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.20498 of 2021 and
Crl.M.P(MD).Nos.11674 and 11675 of 2021

1.Shahul Hammed
2.Laila @ Laila beevi
3.Mariyam @ Mariyam Beevi
4.Mammutha @ Mahuthun Beevi
5.Ramlath
6.Nagoor @ Nagoor Beevi
7.Kathijal @ Kathijal Jafar Ali ... Petitioners / accused

Vs.

1.State rep. by
The Inspector of Police,
All Women Police Station,
Tenkasi, Tenkasi District.
(Crime No.13 of 2017)

2.Fathima ... Respondents

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records in connection with C.C.No.130 of 2019 on the file of the learned Judicial Magistrate, Shenkottai, Tenkasi District in connection with Crime No.13 of 2017 on th file of the Inspector of Police, All Women Police Station, Tenkasi and quash the same.

For Petitioners : Mr.S.Palani Velayutham

For Respondent No.1 : Mr.Vaikkam Karunanithi

Government Advocate (Crl.side)



Crl.O.P(MD).No.20498 of 2021

For 2nd respondent : Mr.S.Ayyanar Premkumar

WEB COPY

ORDER

This criminal original petition has been filed to call for the records in C.C.No.130 of 2019 on the file of the learned Judicial Magistrate, Shenkottai, Tenkasi District in connection with case in Crime No.13 of 2017 on the file of the Inspector of Police, All Women Police Station, Tenkasi and quash the same.

2. The case of the prosecution is that the marriage between the 2nd respondent / de facto complainant and the first petitioner was solemnized on 27.11.2016 and thereafter, the petitioners herein have harassed the de facto complainant by demanding additional dowry and also tortured her both mentally and cruelly. Based on the complaint, a case has been registered in Crime No.13 of 2017 for the offences under Sections 294(b), 498(A) and 506(i) and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 147 IPC on the file of the 2nd respondent and thereafter, charge sheeted in C.C.No.130 of 2019 on the file of the learned Judicial Magistrate, Shenkottai, Tenkasi District. Challenging the same, the petitioners herein have filed the present petition.



WEB COPY

3.The learned counsel appearing for the petitioners submitted that 2nd respondent has given a complaint on 07.12.2016, but, the FIR was registered only on 01.08.2017 after a period of one year and further, as per the statement of 161(3), the petitioners herein have not committed any offence as alleged by the prosecution and hence, he prayed to quash the impugned charge sheet.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. The learned counsel appearing for the second respondent submitted that the petitioners herein have harassed the defacto complainant both mentally and cruelly and also demanded additional dowry and hence, he prayed for dismissal of this petition.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.



7. Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

8. 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 charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against them.

9. For the reasons aforesaid, this Court finds no ground or scope to quash the C.C.No.120 of 2019 on the file of the learned Judicial Magistrate, Shenkottai, Tenkasi District. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, the connected miscellaneous petitions are closed.

10. At this juncture, the learned counsel appearing for the



Crl.O.P(MD).No.20498 of 2021

petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court and also seek early disposal of the above said case.

11. Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of the petitioners is dispensed with before the trial Court with the following conditions:-

i) The personal appearance of the petitioners 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.

28.06.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

trp



Crl.O.P(MD).No.20498 of 2021

To

WEB COPY

1. The learned Judicial Magistrate, Shenkottai, Tenkasi District
2. The Inspector of Police,
All Women Police Station,
Tenkasi, Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



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A.A.NAKKIRAN, J.

Trp

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