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Crl.OP.(MD)No.17029 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 14/12/2023

Date of Pronounced : 06/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Crl.OP (MD)No.17029 of 2023

and

Crl.MP (MD)Nos.13522 and 13523 of 2023

1.Saravanan

2.Vijayalakshmi : Petitioners/A1 and A4

Vs.

1.State rep. by,

Sub-Inspector of Police,
All Women Police Station,
Lalgudi,
Tiruchirappalli District.

(In Crime No.37 of 2022) : 1st Respondent/Complainant

2.Hema

: 2nd Respondent/De-facto
Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in the case in CC No.49 of 2023 on the file of the Judicial Magistrate Court, Lalgudi, Tiruchirappalli District and quash the same as illegal and process of the law as against the petitioners/A1 & A4.

For Petitioners : Mr.M.Jothi Basu

For 1st Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.K.Althaf Sheriff
(Legal Aid Counsel)



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the case in CC No.49 of 2023 on the file of the Judicial Magistrate, Lalgudi.

2.The facts in brief:-

The de-facto complainant namely Hema is the second respondent herein lodged a complaint stating that the marriage between herself and the first accused namely Saravanan took place, on 19/05/2016. They started living in Sivankovil Street. After the marriage, she became pregnant. Thereafter, she was tortured, ill-treated by the husband and other in-laws demanding dowry and the money. She was driven out of the house forcibly. Soon after the above said occurrence, she gave a complaint before the AWPS, Lalgudi. Enquiry was conducted and the police advised the husband and wife to live jointly. Even after the advise, the ill-treatment continued and she was driven out of the house. Later, the husband filed a petition seeking divorce. But she filed HMOP No.84 of 2012 seeking restitution of conjugal rights. It was also ordered. Against which, the husband filed HMOP No.36 of 2018. That was also dismissed. Now, she is living with her sister's child, expecting that her husband will re-take her. On 18/09/2022, she went to the matrimonial



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home, wherein she was abused, criminally intimidated and abused. So she lodged a complaint, which was registered in Crime No.37 of 2022 for the offences under sections 294(b), 323, 498(A) and 506(i) of IPC. After completing the investigation, final report has been filed and it was taken cognizance in CC No.49 of 2023 by the trial court namely the Judicial Magistrate, Lalgudi, Trichy District.

3. Seeking quashment of the same, this petition is filed by the petitioners, who were arrayed as A1 and A4.

4. Now pending process, it was informed the court that the second petitioner namely Vijayalakshmi died. So far as the first petitioner namely Saravanan is concerned, the petition is taken up for hearing.

5. Heard both sides.

6. The learned counsel appearing for the petitioners would sternly submit that this case is nothing, but a clear case of abuse of process of law and court; as a vindictive issue only, such a false complaint was given; without proper investigation, final report is filed. He would submit that even though, divorce proceedings initiated by him, has failed before the trial court. Now



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CMA is pending before the appellate court. Pending appeal proceedings, this false complaint is given. He will refer to the dates and events.

7.Per contra, it is contended by the second respondent that even though, maintenance was ordered, not even a single paise has been paid from 2008. It is a clear finding in the HMOP proceedings that the second respondent was harassed. He would submit that *prima facie* allegations are made, so it must be tried to its logical conclusion.

8.Reading of the entire materials produced by the petitioners shows that it is a long drawn matrimonial issue between the husband and wife. It all started in 2016. A complaint was given by the first petitioner against his wife and father-in-law. The complaint is dated 11/08/2016, which was registered in CSR No.151 of 2016. What happened to the above said complaint is not known. Later, HMOP No.506 of 2017 was filed by the first petitioner seeking divorce. As a counter, the wife filed MC No.6 of 2017 before the Judicial Magistrate, Peraiyur. Later, again the wife initiated action for restitution of conjugal rights by filing HMOP No.84 of 2018. That was allowed. Subsequent to that, various proceedings were



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taken in the form of CMSA and revision by the husband.

Now the present complaint is lodged, on 19/09/2022.

Apparently, after dismissal of the MC, HMOP, etc.

9.By pointing out this, it has been contended by the first petitioner that it is nothing, but vindictive action on the part of the second respondent. Now she wants to go back to the original cause of action. She has stated in the complaint that she was assaulted some five years prior to the complaint. At that time, there was a compromise between them. Probably, it has been referring to the complaint given by the husband in CSR No.156 of 2016.

10.Now whatever it may be, she has simply stated that after the dismissal of the matters, on 08/09/2022 she went to the matrimonial home, wherein she was abused, criminally intimidated. Now only the husband is facing the prosecution, since the second petitioner, after filing of the petition reported to be dead and another accused namely Vasia also died now.

11.So the question, which arises for consideration is whether it is fit case for quashment.



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12.No doubt that only bald allegations are stated in the complaint. But section 498-A of IPC is concerned, I am of the considered view that it must be tried to its logical conclusion. Even though only bald allegations are made in the complaint, in the final report, considering the fact that it is a long drawn issue between the husband and wife, I am of considered view that this is not a fittest case to exercise the jurisdiction under section 482 of Cr.P.C.

13.In the result, this criminal original petition is **dismissed** as against the 1st petitioner. In respect of the second petitioner, during the pendency of this petition, she died, this petition is **dismissed as abated as against her**. Consequently connected Miscellaneous Petitions are closed.

05/03/2024

Index:Yes/No

Internet:Yes/No

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WEB COPY To,

- 1.The Judicial Magistrate,
Lalgudi,
Trichy.
- 2.The Sub-Inspector of Police,
All Women Police Station,
Lalgudi,
Trichy.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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