



CRL OP(MD). No.17865 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/11/2024

CORAM

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL OP(MD). No.17865 of 2023
and Crl.M.P(MD) No.14121 of 2023

1. S.A.Senthilkannan

2. A.Senthivelkumar

3. Vijayalakshmi

4. Dhanalakshmi

... Petitioners/Accused

Vs

1. The Inspector of Police,
All Women Police Station,
Palayamkottai, Tirunelveli District.
(Crime No.19 of 2023).

2. Indira Priyadarshini

... Respondents/Complainants

PRAYER :-

Petition filed under Section 482 of Cr.P.C to call for the records of the impugned FIR dated 30.07.2023 in Crime no.19/2023 on the file of 1st Respondent Police and quash the same.

For Petitioners : Mr.G.Prabhu Rajadurai



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CRL OP(MD). No.17865 of 2023

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Cr.No. 19 of 2023 pending investigation on the file of the first respondent.

2.Heard, the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondents.

3.The case of the prosecution is that the second respondent married A1 in the year 2017. Through their wed-lock they were blessed with a girl child in the year 2018. The specific case of the second respondent is that she received 40 sovereigns of gold jewels and household articles from her parents, which was brought as Sridhana and that apart, she was also provided with cash of Rs.1,50,000/-. A1 was working in Chennai, therefore, the second respondent started living with him in Chennai.



CRL OP(MD). No.17865 of 2023

4.The allegation is that the defacto complainant was put to physical and mental cruelty by A1 and that apart, all her Sridhana properties had been taken away. The 1st petitioner is the brother-in-law of the defacto complainant, 2nd petitioner is the paternal uncle of A1, 3rd and 4th petitioners are the sister-in-law of the 2nd respondent. They are said to have instigated A1 and as a result, A1 has treated the defacto complainant with cruelty. When the same was questioned, she was also threatened with dire consequences. Under such circumstances, a complaint has been given before the respondent police by the 2nd respondent. Based on which, an FIR was registered as against A1 to A5 for the offences under Sections 498(A), 406, 506(i) IPC.

5.The learned Government Advocate (Crl.Side) submitted that the investigation has been completed in this case and a final report was filed before the Judicial Magistrate No.V, Tirunelveli on 07.11.2024 through e-filing mode.

6.The filing of final report by itself will not be a bar for this



CRL OP(MD). No.17865 of 2023

Court to deal with the petition filed under Section 482 of Cr.P.C challenging the FIR and the law in the issue is too well settled. Therefore, this Court has to see as to whether there are any materials for making the petitioners undergo the ordeal of facing trial before the Court below.

7. On careful reading of the allegations made against the petitioners, it goes to show that they are said to have instigated A1 to commit cruelty against the defacto complainant. It is a fact that the defacto complainant was living with A1 elsewhere and that abetment / instigation had taken place over phone. All the allegations that have been made against the petitioners are general and omnibus allegations. Even on a entire reading of the complaint, it is seen that there has no proximity relationship existing between the petitioners and the defacto complainant.

8. It is also seen that a matrimonial dispute was going on between the second respondent and A1 and A1 had filed a petition for



CRL OP(MD). No.17865 of 2023

divorce in HMOP No.429 of 2022 and the second respondent had filed a petition for restitution of conjugal rights in HMOP No.44 of 2023.

9.The other allegations that has been made against the petitioners by the learned counsel for the second respondent is that Sridhana properties are now lying with the first petitioner (A2) and the same has not been returned back.

10.In the considered view of this Court while dealing with a matrimonial dispute which gives rise to filing a criminal case, the Court has to be very careful and has to ensure that all the family members are not roped into the case. The Hon'ble Apex Court has repeatedly held that the criminal proceedings should not be used as a ruse to rope in all the family members and the Court must ensure that any vexatious proceedings against the family members making bald and vague allegations should be nipped at the bud.

11.There is a genuine dispute between A1 and the second



CRL OP(MD). No.17865 of 2023

respondent and that has to be resolved independently. What has to be considered by this Court in this petition is whether the relatives of A1 must also be subjected to criminal prosecution based on the nature of allegations and the materials collected by the Police. This Court finds that except for the *ipse-dixit* of the defacto complainant, which is also general and vague, there is nothing to make the petitioners undergo the ordeal of trial.

12.In the light of the above discussion, this Court has no hesitation to interfere with the FIR that is pending against the petitioners (A2 to A5) and accordingly, the same is hereby quashed. Considering the nature of allegations made against A1 and considering the fact that final report has already been filed by the respondent before the Judicial Magistrate No.V, Tirunelveli, it is left open to the learned Judicial Magistrate to proceed further with the case against A1.

13.The grievance expressed by the second respondent regarding the Sridhana properties being taken away can also be agitated



CRL OP(MD). No.17865 of 2023

as against A1, since it is only during the marriage with A1, such Sridhana properties were brought in by the second respondent. The quash of FIR as against the petitioners will not have any bearing, to proceed further with the case as against A1.

14.In the result, this criminal original petition is allowed and the FIR pending on the file of first respondent in Cr.No. 19 of 2023 is hereby quashed insofar as the petitioners (A2 to A5) are concerned. The copy of the order shall be marked to the learned Judicial Magistrate No.VI, Tirunelveli in order to enable the learned Magistrate to act upon the final report filed in FIR in Cr.No. 19 of 2023 as against A1. The final report shall be acted upon within four weeks from the date of receipt of copy of the order. The entire proceedings shall be completed within a period of six months thereafter. Consequently, connected miscellaneous petition is closed.

28.11.2024

Internet :Yes
Index :Yes/No
NCC :Yes/No
PNM



CRL OP(MD). No.17865 of 2023

TO

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1. The Judicial Magistrate No.V, Tirunelveli
2. The Inspector of Police,
All Women Police Station,
Palayamkottai, Tirunelveli District.
(Crime No.19 of 2023).
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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CRL OP(MD). No.17865 of 2023

N.ANAND VENKATESH, J

PNM

**ORDER
IN**

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