



Crl.OP.No.5103 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5103 of 2024

and

Crl.MP.No.3491 & 3713 of 2024

1. Khaleel Rahman

2. M.B.Mohammed Iqbal

... Petitioners

Vs.

1. Nathiya Banu

2. Abdul Rahman

3. Samsad Rahman

4. Reshma Rahman

5. Shahjahan Vavahussain

6. Zainab Rahman

7. Zainuk Majeela Rahman

8. Sulthan Najmudeen

9. Mariam Rahman

10. Stanley Shamu

11. Dr.Mohammed Kassim Rahman

12. Dr.Mustaq

13. Nafeesa Roja

... Respondents

(Proceedings in C.C.No.3689 of 2019 against Respondents 2 to 13 is quashed. Thus no notice is required)

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash all proceedings in C.C.No.3689 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet as against the petitioners.



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For Petitioner : Mr.N.A.Nissar Ahamed
Senior Counsel
for M/s.I.Kowser Nissar

For Respondents : Mr.J.Chelladurai Caldwell
for R1

ORDER

This petition has been filed to quash the proceedings in C.C.No.3689/19 on the file of XVIII Metropolitan Magistrate Saidapet, thereby taken cognizance for the offences under Sections 498A, 406, 323, 506(ii) and 120B of IPC as against the petitioners.

2. The first respondent is the complainant, she filed a private complaint as against the petitioners, in which, they are arrayed as A1 and A12. On perusal of the complaint and on the recording of the evidences in support of the first respondent case, the Trial Court had taken cognizance for the offences under Section 498A, 406, 323, 506(ii) and 120B of IPC as against the accused persons.

3. The crux of the allegations in the complaint is that the first respondent had stayed at Kodambakkam, Chennai with her husband and



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later her husband and his family members left for Australia. Thereafter, she also went to Australia and lived in a matrimonial home and there she was treated cruelly. Thereafter, she came to India during January 2017. She has been asking for return of her articles from her husband and his family members and that upon their refusal to return her articles, she has lodged a complaint before the concerned jurisdictional police, the same was enquired and closed on 01.06.2019. Thereafter, the first respondent lodged a private complaint.

4. On perusal of the complaint lodged by the first respondent, it is seen that she stayed at Kodambakkam, Chennai for 2 days only before travelling to Malaysia for holidays. All remaining family members left for Australia after the reception ceremony. The first respondent went to Australia in the month of April 2016, where she stayed briefly. As against the petitioners herein are concerned, the only allegation made by the first respondent is that during her stay at Kodambakkam house, she was forced to wash all the clothes of the entire family. It is further alleged that her in laws also did not treat her well. Except these



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allegations, no other iota of allegations to attract any of the offences as alleged by the first respondent herein. The said allegations are also bald and vague . Therefore, the present complaint is nothing but only to harass all the family members. All the allegations are only against the first accused. That apart, second petitioner/A12 is the relative and Manager of A2, the second petitioner/A12 and other family members are not living with the first accused, since, he never looked after his family members and he is residing separately abroad. That apart, no personal belongings of the first respondent is available with the petitioners, since, she had a very stay of only two days with the petitioners herein.

5. The learned counsel appearing for the first respondent submits that the first respondent got remarried with the first petitioner/A1 in the month of December, 2020 and is living a happy life with her new partner and has no intention of harassing the petitioners herein. She is also lawfully retrieving her jewels, valuables and money which is in the possession of the accused. Later, the first accused along with his family members harassed the first respondent.



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6. The learned counsel appearing for the first respondent submits that the Federal Circuit of Australia has granted divorce to the first petitioner and the first respondent on the ground that the marriage has irretrievably broken down vide an order dated 24.03.2020 in (P)MLC13850/2019.

7. In this regard, it is relevant to rely on the landmark judgment in the case of Bajanlal v. State of Haryana, reported in (1992) SCC CrL 426, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C:

"102....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."



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Therefore, the impugned complaint is nothing but clear abuse of process of law and the same cannot be sustained as against the petitioners.

8. Accordingly, this Criminal Original Petition stands allowed and the the impugned proceedings in C.C.No.3689 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet is hereby quashed as against the petitioners. Consequently, connected miscellaneous petitions are closed.

19.03.2025

Vv

To

1. The XVIII Metropolitan Magistrate, Saidapet
2. The Public Prosecutor,
Madras High Court,
Chennai.



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Vv

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