

Crl.OP.No.9700 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.04.2025

CORAM:

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

Crl.O.P.No.9700 of 2025

and

Crl.MP.No.6432 of 2025

1.Mohammed Ashraf
2. Mohammed Ismail

... Petitioners

Vs.

1. The State Rep by Inspector of Police,
All Women Police Station, Vellore
Cr.No.6 of 2024

2. Aafiya Fathima

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records of FIR in Cr.No.6 of 2024 on the file of the 1st respondent Police and quash the same.

For Petitioner : Mr.S.Patrick

For Respondents : Mr.R.Vinothraja for R1
Government Advocate (Crl.Side)
Mr.R.Sunil Kumar for R2



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ORDER

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2. The case of the prosecution, as per the defacto complainant/second respondent one Aafiya Fathima is that she got married with the first accused on 05.02.2023. During marriage, her parents had presented house hold articles and also 27 sovereigns of gold jewels. Immediately, after the marriage, the jewels were taken by her husband and her in-laws. Thereafter, the accused had beaten her to bring some more dowry. When the same was questioned by the second respondent, her husband and her in-laws scolded her with filthy language and also threatened her. Thereafter, on 07.06.2023, she went to Germany to live along with her husband. Even thereafter all the accused demanded huge dowry. Hence the complaint.

3. On the complaint lodged by the second respondent, the first respondent has registered an FIR against the petitioners in Cr.No.499 of 2024 for the offences punishable under Sections 498A, 406 of IPC



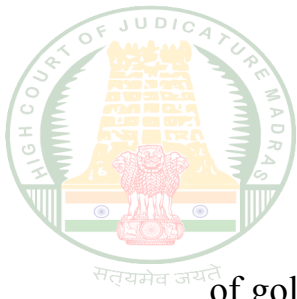
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and Section 4 of Dowry Prohibition Act, 1961.
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4. Even according to the second respondent, before 07.06.2023, there was dispute in which the defacto complainant's husband scolded her with language. The petitioners are none other than the brothers of the second respondent's husband who are arrayed as A4 and A5. That apart, the entire allegations are bald and no specific allegations as against the petitioners. The petitioners are being the family members and they have been falsely roped in this case. In fact after such occurrence, the second respondent went to Germany and lived there with her husband.

5. Heard both sides and perused the materials available on record.

6. A perusal of records revealed the the defacto complainant got married with the first accused on 05.02.2023. During marriage, her parents had presented house hold articles and also 27 sovereigns



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of gold jewels. Immediately, after the marriage, the jewels were taken by her husband and her in-laws. The husband of the defacto complainant was employed in Germany and the Defacto complainant had also lived with him in Germany from June 2023 till they arrived at India.

7. The entire allegation made as against the first accused and insofar as the petitioners are concerned, except the above said allegation, no other allegation made by the second respondent to attract the offence under Section 498(A) of IPC. The petitioners are in-laws and at any point of time, they have not stayed with the first accused and the second respondent.

8. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India reported in **(2005) SCC (Crl.) 735** in the case of ***Ramesh Vs. State of Tamil Nadu***, as follows:

“the allegations made against the husband, the in-laws, husband's brother and sister were bald allegations and appeared to



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suggest the anxiety of the informant to rope in as many of the husband's relatives as possible. It was held that neither the FIR nor the charge sheet furnished the legal basis for the magistrate to take cognizance of the offences alleged against the in-laws of the complainant. It was held that with regard to allegations in the FIR and the contents of the charge sheet, none of the alleged offences under Sections 498(A), 406 and 506(i) and Section 4 of Dowry Prohibition Act, were made against the married sister of the complainant's husband who was undisputedly not living with the family of the complainant's husband. Accordingly, the proceedings against them were quashed”.

9. The above judgment is squarely applicable to this case on hand. Further, the petitioners are in-laws and they are charged for the offence under Section 498(A) of IPC. Mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family



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members of the household in the domestic quarrel taking place in a matrimonial dispute specifically if it happens soon after the wedding. Therefore, the entire proceedings cannot be sustained as against the petitioners.

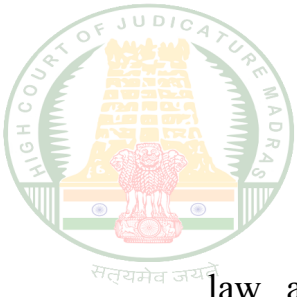
10. In this regard, it is also relevant to extract the judgement reported in **(1992) SCC Crl. 426** in the case of ***Bajanlal v. State of Haryana***, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent 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."*

Therefore, the impugned FIR is nothing but clear abuse of process of



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law and the entire allegations cannot be sustained for further proceedings as against the petitioners alone and it is liable to quashed.

11. In view of the above discussion, the the FIR registered in Crime No.6 of 2024 on the file of the first respondent police is hereby quashed in respect of the petitioners alone. However, the first respondent is directed to proceed the investigation as against other accused and to complete the same within a period of three months from the date of receipt of a copy of this order.

12. Accordingly, the Criminal Original Petition stands allowed.

24.04.2025

Vv

To

7/9



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1. The Inspector of Police,
All Women Police Station, Vellore
Cr.No.6 of 2024

2. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.



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