



Crl.OP.Nos.15391 and 15791 of 2023

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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.Nos.15391 and 15791 of 2023

and

CRL.MP.Nos.9596, 9598, 9857 and 9858 of 2023

Crl.O.P.No.15391 of 2023

1. Vethamuthu
2. Susila

... Petitioners

Vs.

1. The State of Tamilnadu
Rep by the Inspector of Police,
All Women Police Station, Thudiyalur,
Nagapattinam-Coimbatore-Gundulpet Highway,
TNP Nagar, Coimbatore.
(Ref: Cr.No.20 of 2022)

2. Dharanyaa

... Respondents

Crl.O.P.No.15391 of 2023

1. Reji
2. Dimp
3. Manju

... Petitioners

Vs.



Crl.OP.Nos.15391 and 15791 of 2023

1. The State Rep by
The Inspector of Police,
All Women Police Station,
Thudiyalur Police Station,
Coimbatore.
(Cr.No.20 of 2022)

2. Dharanyaa

... Respondents

PRAYER in 15391 of 2023: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the C.C.No.707of 2023 pending on the file of the Additional Mahila Court, Coimbatore and all consequential proceedings arising therefrom.

PRAYER in 15791 of 2023: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the case in C.C.No.707of 2023 which is pending on the file of the Additional Mahila Court, Coimbatore and quash the same against the petitioners (A4, A5 and A6) as illegal and improper.

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For Petitioners : Mr.K.Newlin Frederick

For Respondents : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)
for R1

: Mr.M.Mohamed Yasin for R2



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For Petitioners : Mr.S.Kingston Jerold

For Respondents : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)
for R1
: Mr.M.Mohamed Yasin for R2

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.707 of 2023 on the file of Additional Mahila Court, Coimbatore.

2. The petitioners in Crl.OP.No.15391 of 2023 are arrayed as A2 and A3 and the petitioners in Crl.OP.No.15791 of 2023 are arrayed as A4, A5 and and A6. A2, A3, A4, A5 and A6 are the father-in-law, brother-in-law and sister-in law of the second respondent respectively.

3. The case of the prosecution as per the defacto complainant one Dharanyaa is that initially, she got married to one C.Hari from Idaiyarpalayam in the year 2011, the said marriage was ended in divorce.



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Again, on 23.05.2015, she got married to one Shiju, S/o Vethamuthu at Sree Annapoorna Hotel, Saibaba Colony, Coimbatore. The petitioners from the date of marriage, enquired the de facto complainant about the details of the gold jewels and teased the defacto complainant by comparing status.

4. Further, A2 hold the hair of the defacto complainant and dragged her out of the matrimonial home. A1 along with her parents, collected the jewels and pledged the same. The defacto complainant questioned the same on 2019 and requested them to return the gold jewels, the defacto complainant was chased out of the matrimonial home. Subsequently, A1/her husband agreed to pay interest to the gold jewels and failed to pay interest and on 2021, the jewels came into auction. The defacto complainant requested them to release the jewels and pay the money, the petitioners/accused persons 1, 2 and 3 refused to pay the same. Hence, the second respondent lodged a complaint before the first respondent police as against the petitioners.



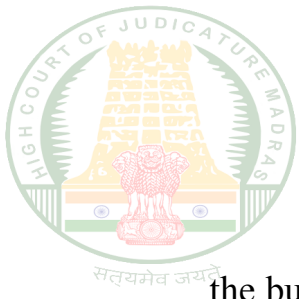
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5. On the complaint lodged by the second respondent, the first respondent registered an FIR against the accused in Cr.No.20 of 2022 for the offence under Sections 498A and 406 of IPC.

6. The learned counsel appearing for the petitioners submits that both the first accused/A1 and the second respondent after getting divorce from their respective spouses, the second marriage was performed between them on 23.05.2015. After their marriage, they are living together in the matrimonial home only for a period of two weeks. Thereafter, the first accused and the second respondent had lived in the separate house. The petitioners never lived together with them. Even after setting the separate house for them, the second respondent used to harass the first accused.

7. The learned counsel for the petitioners further submits that A1 was running business by handling two companies namely M/s.Cap Inde Coirs Pvt Ltd., and M/s.Ethamozhy Coir Cluster Private Limited. The second respondent with an intention to get control over the finances of



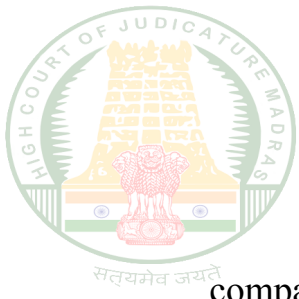
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the business of A1, involved herself in the business of A1, accessing and handling the finance of the said business. She had used the company's money for her personal needs including purchase of gold for herself. The second respondent also insisted her husband to sell the properties, since the second respondent had pledged her golden ornaments for their personal use and also to help her parents.

8. The learned counsel further submits that the second respondent used to visit her parents house at Coimbatore very often and pledged the entire jewels at Coimbatore. Thereafter, the second respondent on her own, left her matrimonial home and stayed with her parental home.

9. Infact, the second respondent also filed a suit for recovery of money in O.S.No.989 of 2022 on the file of the I Additional District Court, Coimbatore without any cause of action. She has also lodged a complaint for the offence under Section 138 of Negotiable Instruments Act in S.T.C.No.95 of 2022 on the file of the learned Fast Tract Court-I (Magisterial Level), Coimbatore as against the first accused and his



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company. Therefore, due to the said cruelty, the first accused was constrained to file a petition for divorce in H.M.O.P.No.781 of 2022 on the ground of cruelty and it is pending. On receipt of the notice from the divorce petition, immediately after receiving notice by the second respondent, she has lodged a complaint against the first accused.

10. The first respondent also without conducting preliminary enquiry, immediately registered an FIR. After completion of investigation, filed a final report and the same has been taken cognizance by the trial Court in C.C.No.707 of 2023 for the offences punishable under Sections 498A and 406 of IPC , that too after a period of seven years from the date of their marriage.

11. Further in so far as the petitioners in both the petitions are concerned , they have never lived together with the second respondent. Even according to the second respondent, nearly three weeks after their marriage, they lived in the matrimonial home. Thereafter, they had separate house and staying separately along with her husband/A1. Hence, he prayed to quash the petition.



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12. The learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and opposed to allow these petitions.

13. The learned counsel appearing for the second respondent submits that right from the day of marriage, the first accused/A1 and his family members had been exploiting the second respondent's life by way of extorting money and gold jewels from her. He further submits that at the instigation of the first accused and his parents, the second respondent was compelled to give her gold jewels weighing 80 sovereigns and the same was pledged in the name of the first accused for business commitment. Subsequently, it was redeemed by the second respondent through amount derived from the second respondent's family members alone, who were borrowed some amounts from the third parties.

14. He further submits that when the second respondent insisted for the said payment for the redemption of jewels, finally, the first accused had issued five post dated cheques in favour of the second



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respondent towards the legally enforceable debt for an amount of Rs.26,00,000/-, the same was presented for collection. The said cheques were returned as "funds insufficient" on 15.07.2021 through return memo. Thereby, the accused persons have cheated the defacto complainant. Hence, he prays for dismissal.

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

16. A perusal of entire allegations made in the complaint as well as in the statement of the second respondent revealed that there is no specific allegations as against the petitioners to attract any other offence. The first respondent ought to have conducted preliminary enquiry before registering an FIR in a family matter. As directed by the Hon'ble Supreme Court of India and this Court repeated in the personal care, the first respondent failed to conduct preliminary enquiry and mechanically register the FIR, immediately after receipt of the complaint from the second respondent.



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17. A perusal of the statements recorded from the family members of the second respondent, it is stereotyped one and no statement was recorded from any independent witness. 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 they were not living in their respective matrimonial house and at any point of time, they have not stayed with the first accused and the second respondent.

18. 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 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



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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”.

19. 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 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 and it is nothing but clear abuse of process of law and it is liable to be quashed.



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20. In view of the above discussion, the proceedings in C.C.No.707 of 2023 on the file of Additional Mahila Court Coimbatore as against the petitioners are hereby quashed in respect of the petitioners alone. Insofar as the first accused is concerned, the trial Court is directed to complete the trial as against the first accused within a period of six months from the date of receipt of a copy of this order, if not already disposed of.

21. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

19.03.2025

Vv

To

1. The Additional Mahila Court, Coimbatore
2. The Inspector of Police,
All Women Police Station, Thudiyalur,
Nagapattinam-Coimbatore-Gundulpet Highway,
TNP Nagar, Coimbatore.
3. The Public Prosecutor, High Court of Madras, Chennai.

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G.K.ILANTHIRAIYAN, J.

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