



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2019

CORAM

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

Crl.O.P. (MD) No. 6940 of 2014

and

CrlMP(MD) No. 1 of 2014

1.Senthil Kumar

2.Jeyaraman

3.Banumathi

4.Chitra Devi

5.Shanmugasundaram

6.Moorthy

7.Malar @ Semmalarselvi

... Petitioners

Vs.

1.The State represented by  
Inspector of Police,  
All Women Police Station,  
Manapparai,  
Tiruchirappalli District.  
[Crime No.3 of 2009]

2.Devi Rani

3.N.Shymala Devi

....Respondents

**PRAYER:-** Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in CC No.370 of 2013 on the file of the learned Judicial Magistrate, Manapparai, Tiruchirappalli District as against the petitioners.

For Petitioners

: Mr.A.Thiruvadi Kumar

For Respondent

:Mr.S.Bharathi,

No.1

Government Advocate(crl side)

For Respondent

Nos.2 & 3

: No appearance.

**ORDER**

This petition has been filed seeking to quash the proceedings in CC No.370 of 2013 on the file of the Judicial Magistrate, Manapparai, Tiruchirappalli District as against the petitioners.

2.The the 2<sup>nd</sup> respondent/ de facto complainant has filed a complaint before the 1<sup>st</sup> respondent against the petitioners herein. The respondent Police after investigation filed a charge sheet, which is sought to be quashed by the petitioners in this petition.

3.The learned Counsel for the petitioners submitted that already there was a complaint regarding the dowry and Social Welfare Officer conducted preliminary enquiry and submitted a report stating that there was no demand of dowry. The said report was not considered by the Investigating Officer. The Investigating Officer after completing the investigation had filed the charge sheet, with mala fide intention against these petitioners and has not considered the ground reality. It is further submitted that Section 498 of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act will not attract against A-6 and A-7, when they are strangers to the de facto complainant and they are employees of A-1. Further, the 2<sup>nd</sup> respondent wife had filed a maintenance petition before the Judicial Magistrate, Manapparai and the same was dismissed, against which, revision case was filed before the Sessions Judge, who had confirmed the order passed by the Magistrate and dismissed the petition. It is further submitted that 1<sup>st</sup> petitioner filed a Divorce Petition against the 2<sup>nd</sup> respondent, which was allowed and divorce was granted, against which no appeal is filed. There are two judicial pronouncement in favour of the petitioners and there is no demand of dowry, harassment, cruelty as projected by the 2<sup>nd</sup> respondent. Therefore, the petitioners need face the trial. Further the object of Section 498(A) of IPC is entirely different.

4.The learned Counsel for the petitioners has placed reliance on the following judgments:

**1.Preeti Gupta & Anr Vs State of Jharkhand & Anr, reported in AIR 2010 SC 3363;**

**2.Geeta Mehrotra & Anr Vs State of Uttar Pradesh & Anr, reported in (2012) 10 SCC 741;**

**3.Rajiv Thapar and others Vs. Madan Lal Kapoor, reported in (2013) 3 SCC (Cri) 158; and**

**4.Kaliash Chandra Agarwal and Anr Vs State of Uttar Pradesh and Anr, reported in (2014) 16 SCC 551.**

5.He further submitted that while dealing with the matrimonial disputes the Courts have to be very cautious. Therefore, in this case already the Social Welfare Officer conducted preliminary enquiry and submitted a report stating that there is no dowry harassment. Further, the stand taken by the wife has been rejected



by the Magistrate as well as the Sessions Judge. Therefore, the charges against these petitioners have to be quashed.

6. Heard both sides and perused the materials placed on records.

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7. A reading of the materials show that the marriage between 1<sup>st</sup> petitioner and 2<sup>nd</sup> respondent took place on 06.11.2009. Subsequently, there were frequent quarrels between them. The wife filed maintenance case, which ended against her. Further the divorce petition filed by the husband was allowed. Further, the Social Welfare Officer has given a report that there was no demand of dowry. Now the 2<sup>nd</sup> respondent filed a complaint against these petitioners. The contention that Section 498(A) of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, will not attract against A-6 and A-7 are concerned, the charge sheet shows that it is clearly stated that A-6 and A-7 induced A-1 to A-5 and therefore, they are charged under Section s 109 r/w Section 4 of TNPWH Act. Therefore, this Court does not find any infirmity in the charges levelled against A-6 and A-7. LW.1 and LW.3 in their statement during the investigation, they have clearly stated about the involvement of A-6 and A-7. Though they are not family members, they are relatives and they induced A-1 to A-5 to cause injuries. Therefore, the contention raised by the learned Counsel for the petitioners is unacceptable and the same is rejected.

8. As far as maintenance case is concerned, it is only a summary procedure, whereas maintenance is claimed and the trial Court found no reason to live separately and dismissed the petitioner and there is no finding that there was no cruelty or there is no demand of dowry and the Sessions Judge also had not recorded such finding. Mere dismissal of the petition cannot be a ground to quash the charge. Further, the criminal revision case in CrI RC(MD)No.618 of 2016 filed by A-6 and A-7 against the dismissal of the discharge petition is also dismissed by this Court vide order dated 31.01.2019.

9. Though there is no quarrel with the proposition of law laid down in the judgments cited, at the same time, the exercise of power under Section 482 of CrPC, should be exercised sparingly.

10. This Court is of the view that there is no case made out to quash the charges against these petitioners. The points raised by the petitioners can be raised before the trial Court.



11. In the result, the criminal original petition is dismissed.  
Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar(CS )

dsk

To

1. The Judicial Magistrate,  
Manapparai.

2. The Inspector Police,  
All Women Police Station,  
Manapparai.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Cr1.O.P. (MD) No. 6940 of 2014**  
**31.01.2019**

**BUC (05/07/2019) 4P/4C**