
(2011) 03 MAD CK 0213

In the Madras High Court

Case No : Criminal O.P. No. 1732 of 2010 and M.P. No's. 1 and 4 of 2010

Mrs. Baby and S. Jeganathan

APPELLANT

Vs

State and Mrs. Anuradha

RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Hindu Marriage Act, 1955 — Section 13(1)
Penal Code, 1860 (IPC) — Section 498(A)

Citation : (2011) 03 MAD CK 0213

Hon'ble Judges : G.M. Akbar Ali, J

Bench : Single Bench

Advocate : P. Madhan, for the Appellant; S. Arivazhagan, for Respondent 1 and Hassan Mohammed Jinnah, APP for Respondent 2, for the Respondent

Final Decision : Allowed

Judgement

G.M. Akbar Ali, J.—By consent of both sides, the matter has been taken up for final hearing. The Petitioners herein, who have been

arrayed as A.2 and A.3 in C.C. No. 225 of 2009 on the file of the learned Judicial Magistrate No. I, Thiruppur, seek for a direction to call for the

records relating to the above said calendar case and to quash the same.

2. Factual aspects involved are briefly outlined below for better appreciation.

The 2nd Respondent herein is the wife of one Shanmuga Raja and the Petitioners herein are her in-laws. The marriage between the said Shanmuga

Raja and the 2nd Respondent took place on 26.4.2004 and out of the wed-lock, the 2nd Respondent gave birth to a male child on 24.2.2005. It

is alleged by the 2nd Respondent/defacto-complainant that her husband used to drink and assault her demanding money and jewels as dowry.

3. The allegation against the Petitioners is that they were also in support of the husband of the defacto-complainant. According to the defacto-

complainant, she was driven out of the matrimonial house and was living with her parents for some time and in the year 2009, there was a

conciliation and on advice of the elders, she was sent along with her husband to Tiruppur where he was employed. Even in Tiruppur, on the next

day itself, the husband started ill treating her and was demanding money, cash and jewels. On 3.3.2009, her husband left her and she found that he

had taken all the jewels along with him and therefore, she had given a complaint before the All Women Police Station, Tiruppur on 26.3.2009,

which was registered in Cr. No. 21 of 2009 for the offence u/s 498-A IPC. After completion of investigation, charge sheet has been filed in C.C.

No. 225 of 2009 for the offence u/s 498-A against the Petitioners also for having abetted the offence. Aggrieved by the case having been taken

cognizance against the Petitioners, who are the in-laws of the de facto-complaint, they have filed the present petition to quash the proceedings.

4. Mr. P. Madhan , the learned Counsel for the Petitioner points out that there is no specific allegation in the complaint given by the de facto-

complainant against the Petitioners herein. The learned Counsel further submits that the husband has filed a petition for dissolution of the marriage

u/s 13(1) of the Hindu Marriages Act, which is pending and as a counter blast, the complaint dated 26.3.2009, with the allegation of dowry

harassment, which led to the proceeding under challenge, having come to be lodged. The learned Counsel pointed out that even the allegations in

the first information report do not constitute any offence as against the Petitioners and therefore, the entire proceedings in so far as the Petitioners

are concerned are liable to be quashed.

5. On the contrary, Mr. S. Arivazhagan, the learned Counsel for the defacto-complainant would submit that only at the instigation of the

Petitioners, the husband committed the offence u/s 498-A IPC and the actuality or otherwise of the allegations have to be gone into and decided

only in the course of trial and therefore, proceedings need not be interfered with at this stage.

6. The learned Additional Public Prosecutor would submit that after through investigation charge sheet was filed and the case was taken on file in

CC No. 225 of 2009 and is pending trial.

7. Heard and perused the materials available on record.

8. It is well settled that in any criminal proceedings, after filing of the charge sheet, usually the court will not interfere invoking the jurisdiction u/s

482 Cr.P.C unless it is shown that continuance of the proceedings is an abuse of process of law. The Court is not expected to analyse the

evidence at this stage to come to a conclusion whether a case has been made out for conviction of the accused or not.

9. The genesis of the present criminal proceedings is on the complaint given by the 2nd Respondent on 26.3.2009. The alleged offence is stated to

have been committed between 27.2.2009 and 3.3.2009. It is alleged that immediately after the birth of the child in 2005, the husband of the

defacto-complainant started assaulting the Petitioner, and demanded dowry by way of cash and jewels. It is alleged that "" ,jw;F vd; fzthpd; jha;.

je;ijahd n\$/nggp/ v!;/ b\$fehjd; Mfpnahh; cle;ijahf ,Ue;jdh;/

10. It is said that thereafter the defacto-complainant left her matrimonial home and was living with her parents till 2009. Only thereafter, she has

joined with her husband and started living with him at Tirupur. It is specifically alleged that between 27.2.2009 and 3.3.2009, the husband of the

defacto-complainant subjected her to cruelty.

11. It is well settled that in matrimonial disputes, when there was a conciliation between the parties, later the defacto-complainant cannot level any

charge on the earlier allegations of dowry demand or cruelty, except on any subsequent occurrences. Even according to the complainant, the

Petitioners said to be in support of her husband when he started ill treating her in the year 2005. Thereafter, she had left the matrimonial home.

Only in 2009, there was re-union and she started living with her husband at Tiruppur. The alleged cruelty by the husband was of the period

between 27.2.2009 and 3.3.2009 and there is no allegation of involvement of the Petitioners during that relevant period.

12. That being the case, there is no legal evidence available against the Petitioners and the continuance of the proceedings against them before the

trial court is nothing but abuse of process of law.

13. Under such circumstances, the present matter being one of the fit case, this Court has no hesitation to exercise its power u/s 482 Cr.P.C to

interfere with the proceedings on insofar as the Petitioners are concerned.

14. In the result, the criminal original petition is allowed and the proceedings in C.C. No. 225 of 2009 on the file of the learned Judicial Magistrate

No. I, Thiruppur are quashed insofar as the Petitioners are concerned. It is needless to mention that the proceedings as against the

accused/husband will go on and the case will be disposed of in accordance with law. Consequently, connected Mps are closed.