

Madras High Court

Arunkumar vs The State Rep By on 30 September, 2020

CRL.O.P.No.437

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.4373 of 2020
and CrI.M.P.Nos.2508 & 2509 of 2020

Arunkumar
S/o.M.Panneerselvam

... Petitione

Vs.

1. The State Rep by
The Inspector of Police,
All Women Police Station,
Tiruvallur.
(Crime No.13 of 2019)

2. K.Vidhya @ Durga,
D/o.Krishnamurthy

... Responde

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for the records of the proceedings in C.C.No.415 of 2019
file of the learned Judicial Magistrate-1, Tiruvallur and quash the same

For Petitioner : Mr.J.Saravana Vel

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor.

For R2 : Mr.P.Kumaresan
For Mr.G.Desigu

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ORDER

This petition has been filed to quash the proceedings in C.C.No.415 of 2019 on the file of the learned Judicial Magistrate-1, Tiruvallur, thereby taken cognizance for the offences under Sections 498A & 406 of IPC as against the petitioner.

2. The learned counsel would submit that the petitioner is a sole accused. Initially the second respondent herein lodged complainant on 20.06.2019 and the same was registered in Crime No.13 of 2019 for the offences under Section 498A, 406 & 506(i) of IPC as against four accused persons. After completion of investigation, the first respondent filed final report for the offences under Sections 498A & 406 of IPC as against the petitioner alone. The allegations are that the marriage took place between the petitioner and the second respondent on 26.06.2015 and at that time of marriage, the second respondent was presented 50 sovereign of jewels, 1½ Kg silver articles and other house hold articles by her parents. After their marriage, they lived in the mother-in-law's house only for 10 days and thereafter shifted their residence to Kerala, since her husband was working at Kerala. Thereafter, the family members of the petitioner harassed her and also demanded huge <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 dowry to live with her husband. In fact, they also hid the petitioner herein and refused to live with the petitioner herein. On 07.08.2016 the defacto complainant was driven out from the matrimonial house. Thereafter on 24.08.2016, the petitioner issued notice for seeking divorce to the second respondent herein. All the accused persons are threatened her to give consent for divorce between the petitioner and second respondent. Further alleged that the gold jewels and also silver articles have been under custody of her in-laws and demanded huge dowry to re-union between the petitioner and the second respondent.

2.1. The learned counsel appearing for the petitioner further submitted that the entire allegations are completely false and the complaint itself lodged after period of three years. Admittedly, the second respondent was driven out from the matrimonial house on 07.08.2016, whereas the complaint lodged only on 20.06.2019. On the date of receipt of the complaint itself, the first respondent registered the case and on same day the investigating officer examined almost all the witnesses shown in the list of witnesses. He further submitted that in fact the in-laws of the petitioner filed a petition for not to harass before this Court in Crl.O.P.No.15937 of 2019 and this Court by an <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 order dated 21.06.2019, directed the first respondent to conduct enquiry and take further action in accordance with law. Further observed that it is made clear that if the first respondent finds that it is a matrimonial dispute, the first respondent police shall relegate the parties to approach appropriate family Court. It clearly shows that this Court by an order dated 21.06.2019 only directed the first respondent to conduct enquiry. However the FIR has been registered on 20.06.2019. If at all the FIR registered on that day, definitely the respondent police would have represented before this Court that already FIR has been registered. Therefore, the FIR itself pre-dated one and on the date registration of FIR itself, all the list of witnesses have been examined by the first respondent.

2.2. The learned counsel appearing for the petitioner would further submit that the petitioner issued notice to the second respondent on 24.08.2016, thereby called upon the second respondent that the petitioner no longer wants to live with the second respondent at Thiruvallur and intended to file petition for divorce. On receipt of the same, on 27.08.2016, the second respondent's father along with one Rajakumar and others came to the petitioner's house and assaulted the parents of the petitioner herein and also <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 abused them with filthy language, and threatened them with dire consequences. Therefore, the petitioner's father lodged complaint before the Inspector of Police, Thiruvallur and the same was registered in Crime

No.671 of 2016 for the offences under Sections 294(b), 323 & 506(1) of IPC and it is pending for investigation.

2.3. The petitioner filed petition for divorce on the ground of cruelty in H.M.O.P.No.103 of 2016 against the second respondent herein on the file of the Family Court, Tiruvallur. In fact, the matter was referred before Lok Adalath for compromise on several occasions but, no negotiation had been taken place and the second respondent did not come for any settlement. Therefore, the matter was again referred back to Court for trial. Thereafter, she filed a petition for restitution of conjugal rights in H.M.O.P.No.504 of 2017 on the file of the learned Principal Judge, Family Court, Chennai. The second respondent also filed a transfer petition in Tr.C.M.P.194 of 2017 to transfer the divorce petition to the Family Court, Chennai. This Court by an order dated 09.06.2017 transferred the both O.Ps. filed by the petitioner as well as the second respondent to the Subordinate Court, Tambaram and renumbered as H.M.O.P.Nos.692 & 830 of 2017 respectively. In the said proceedings, there is <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 absolutely no whisper about the allegations made in FIR. In fact, the second respondent also filed domestic violence case in D.V.C.No.30 of 2018 as against the petitioner on the file of the Additional Mahila Court, Allikulam. It is also seen that in the restitution of conjugal rights petition, the trial Court ordered maintenance of Rs.10,000/- and the same was challenged by the petitioner in C.R.P.No.3856 of 2018 and this Court by order dated 14.03.2019 reduced the same to Rs.7,000/- per month. While being so, the second respondent suppressed the above events between them and only to harass the petitioner, lodged the present complaint with false allegations on 20.06.2019. Therefore, the entire proceedings are nothing but clear abuse of process of law.

2.4. The learned counsel appearing for the petitioner further submitted that no witness has been spoken about the role played by the petitioner and there is no specific allegations are made out from the entire material produced by the first respondent herein as against the petitioner to attract the offence under Section 498A of IPC. There is no explanations from the second respondent for the belated complaint. Admittedly she left the matrimonial home on 07.08.2016 and lodged the present complaint only on 20.06.2019 that too suppressing the entire facts with regard to filing of divorce petition and <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 restitution of conjugal rights petition and also domestic violence cases. Therefore, it is nothing but clear abuse of process of law and only with an intention to wreck vengeance as against the petitioner, this false complaint has been lodged as against the petitioner. To support of his contention, he relied upon the following judgments :-

- i) (2009) 10 SCC 604 - Bhaskar Lal Sharma and anr Vs. Monica
- ii) (2009) 14 SCC 466 - Shakson Belthissor Vs. State of Kerala and anr
- iii) (2014) 13 SCC 567 - Swapnil and ors Vs. State of Madhya Pradesh
- iv) (2017) 9 SCC 413 - Varala Bharath Kumar Vs. State of Telangana and anr.
- v) (2018) 13 SCC 747 - Kartik chandra Majee and ors Vs. State of Jarkhand and anr.

Therefore, he sought for quashment of the entire proceedings.

3. Per contra, the learned counsel appearing for the second respondent/defacto complainant filed counter and submitted that other proceedings pending between the petitioner and the second respondent are not impediment for her to lodge this complaint for the offences committed by the petitioner herein. The offence under Section 498A of IPC is a continuous offence and cause of action arose even immediately after the marriage between the petitioner and the second respondent. The family members of the petitioner harassed the second respondent by demanding huge dowry. Till the lodgement of the complaint, there was harassment by the petitioner and his family members demanding huge dowry from the second respondent and her family members.

3.1. He further submitted that the witnesses categorically have spoken about the overt-act of the petitioner in respect of harassment and also demand of huge dowry. The observation Mahazar witnesses have spoken about the overtact and also independent witnesses viz., the neighbours have also spoken about the overtact of the petitioner herein to attract the offence under Sections 498A and 406 of IPC. He further submitted that during the marriage, her parents presented 50 sovereign of gold and 1½ Kg of silver articles. Her husband was working as software engineer in Kerala and therefore the second respondent stayed along with the petitioner at Kerala. During the month of March, 2016, when they came to Chennai, the petitioner left the second respondent in her parents house stating that he would take her back after shifting the residence at Kerala. Thereafter, when the parents of the second respondent had taken her to the house of the petitioner at Thiruvallur, the second respondent was not even permitted to enter into the house, and the parents of the petitioner abused them with filthy language and also threatened them only after receiving the huge dowry, they will allow the second respondent to live with her husband. The petitioner and her family members continuously harassed the second respondent to the core and demanded huge sum of dowry.

3.2. He further submitted that the second respondent is also taking steps to implead the parents of the petitioner in the present proceedings. The grounds raised by the petitioner are factually disputed and it cannot be considered by this Court under Section 482 of Cr.P.C. Further the evidences and materials cannot be appreciated by this Court that too under the quash petition filed under Section 482 of Cr.P.C. He also relied upon the judgments of the Hon'ble Supreme Court of India as follows:-

i) Crl.A.No.579 of 2019 dated 02.04.2019 - Devendra Prasad Singh Vs. State of Bihar & Anr.

ii) Crl.A.No.1572 of 2019 dated 17.10.2019 -Central Bureau of Investigation Vs. Arvind Khanna.

iii) Crl.A.No.1817 of 2019 dated 02.12.2019 - M.Jayanthi Vs. K.R.Meenakshi & anr.

Therefore, he sought for dismissal of the quash petition. <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020

4. The learned Additional Public Prosecutor submitted that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.13 of 2019 for the offences punishable under Section 498(A), 406 and 506(i) of IPC, as against the four accused persons, in which the petitioner is arrayed as A1. On the date of registration of FIR, the first respondent recorded the statements of L.Ws.1 to 8, 14, 16. Other witnesses have been examined on the next day viz., 21.06.2019. Thereafter the first respondent filed final report only as against the petitioner, after filing alteration report thereby deleting the other accused persons 2 to 4 on 19.10.2019 and filed final report. The same has been taken cognizance by the trial Court in C.C.No.415 of 2019 and it is pending.

4.1. He further submitted that there are specific allegations and overtact as against the petitioner for the offences under Sections 498(A) and 406 of IPC. The offence under Section 498A of IPC is a continuous offence and as such though the second respondent lodged complaint on 20.06.2019, there were continuous harassment by the petitioner herein by demanding huge dowry. He further submitted that the jewels and silver articles, which were presented in her marriage also under the custody of the petitioner and his <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 family members. Therefore the offence under Section 406 of IPC is also clearly attracted as against the petitioner and all the points raised by the petitioner herein are mixed questions of fact and it cannot be considered here. Therefore, he sought for dismissal of this petition.

5. Heard Mr.J.Saravanel, learned counsel appearing for the petitioner, Mr.P.Kumaresan, learned counsel appearing for the second respondent and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent.

6. The petitioner is a sole accused. On the complaint lodged by the second respondent on 20.06.2019, the first respondent registered FIR in Crime No.13 of 2019 for the offences punishable under Sections 498(A), 406, 506(1) of IPC as against four accused persons in which the petitioner is arrayed as A1. The first respondent after completion of investigation, filed final report on 19.10.2019 thereby deleting the accused A2 to A3 and filed the charge sheet as against the petitioner alone for the offences under Sections 498(A) and 406 of IPC.

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7. Admittedly, the petitioner was married with the second respondent on 20.06.2015 and after their marriage they stayed at Kerala, since the petitioner was employed at Kerala. Thereafter, the second respondent left the matrimonial home 07.08.2016 for the reason that the petitioner and his family members harassed the second respondent and also demanded huge dowry. Thereafter the parents of the second respondent had threatened the petitioner's father over telephone as such, the petitioner's father lodged complaint before the Inspector of Police, Town Police Station, Thiruvallur, and on receipt of the same the petitioner's father was issued CSR on 07.08.2016.

8. Thereafter, the petitioner caused legal notice dated 25.08.2016 to the second respondent stating that the second respondent harassed the petitioner and also every day there was a threat by the second respondent through police. Therefore, he did not want to live with the second respondent

and call upon the second respondent that longer wanted to live with her and intended to file a petition for divorce. On receipt of the same, the second respondent did not send any reply to the petitioner. In fact on 27.08.2016, the petitioner's father lodged complaint alleging that the second respondent and one Rajkumar had come to the petitioner's house and assaulted the parents' and <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 also threatened them with dire consequences. Therefore, the petitioner's father lodged complaint and the same was registered in Crime No.671 of 2016 for the offences under Sections 294(b), 323, 506(i) of IPC as against the second respondent's father and one Rajkumar and it is pending for investigation.

9. Thereafter, the petitioner filed petition for divorce on the ground of cruelty in H.M.O.P.No.103 of 2016 on the file of the Family Court, Tiruvallur. There was a mediation between the petitioner and the second respondent and all are went to vain. Further, the second respondent filed a petition for restitution of conjugal rights in H.M.O.P.No.504 of 2017 on the file of the Principal Judge, Family Court, Chennai. The second respondent also filed a transfer petition in Tr.C.M.P.194 of 2017 to transfer the divorce petition to the Family Court, Chennai. The petitioner also filed a transfer petition in Tr.C.M.P.No.363 of 2017 to transfer the restitution of conjugal rights petition to the Family Court, Tiruvallur. This Court considered both the transfer petitions and by an order dated 09.06.2017 transferred both the petitions filed by the petitioner as well as the second respondent to the Subordinate Court, Tambaram, and both petitions are pending for trial. <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020

10. The second respondent also filed a complaint under the Domestic Violence Act in D.V.C.No.30 of 2018 on the file of the Additional Mahila Court, Allikulam, Chennai and it is pending for trial. In fact, an interim maintenance was ordered as against the petitioner to pay a sum of Rs.10,000/- to the second respondent and as against which, the petitioner filed a Civil Revision Petition in C.R.P.No.3856 of 2018 and this Court by an order dated 14.03.2019, reduced the monthly maintenance from Rs.10,000/- to Rs.7,000/-.

11. On perusal of the records, it shows that the petitioner's parents filed a petition before this Court for direction directing the first respondent not to harass, in CrI.O.P.No.15937 of 2019. This Court by an order dated 21.06.2019, directed the first respondent to conduct an enquiry and take further action in accordance with law. This Court further observed that if the first respondent finds that it is a matrimonial dispute, the first respondent police shall relegate the parties to approach the appropriate family Court. It is unfortunate to state that the first respondent did not represent anything before this Court about the registration of FIR as against the petitioner herein in Crime No.13 of 2019 on 20.06.2019. In fact, the first respondent have examined and recorded the statements under Section 161(3) of Cr.P.C., almost <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 from all the witnesses on 21.06.2019. The first respondent completed the investigation and filed final report on 19.10.2019. It would clearly show that in a single day, the first respondent registered the FIR and also examined all the list of witnesses.

12. It is also seen from the statements, all are stereo type and in fact the neighbours have stated that there was no dowry harassment. In fact, the pendency of the proceeding between the petitioner and the second respondent are not at all considered by the first respondent and since the second

respondent and her supporting evidences did not even whisper about those proceedings. It is settled law that the offence under Section 498A is a continuous offence. But in this case on hand, there is no explanation for the delay in lodgement of complaint by the second respondent. Admittedly, she left the matrimonial home on 07.08.2016. Thereafter there are so many proceedings, including the domestic violence complaint between the petitioner and the second respondent. All the matters are now pending for trial before the respective Courts. The second respondent suppressing all those facts and lodged complaint without any date of occurrence, place of occurrence and without any specific overtact as against the petitioner. The first respondent <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 registered the case on the receipt of complaint itself without conducting any enquiry on 20.06.2019 and on the same day the first respondent recorded the statement under Section 161(3) of Cr.P.C., from all the witnesses except two witness. This Court and the Hon'ble Supreme Court of India repeatedly held that in the matter related to the family Court offences, the police official has to conduct preliminary enquiry and only thereafter if any cognizable offence is made out can register the case. In the case on hand, on the same day, everything has been done and filed final report. Fortunately, the first respondent deleted other accused persons viz., the parents and relatives of the petitioner herein from the charge sheet.

13. In this regard the learned counsel appearing for the petitioner relied upon the judgment reported in (2009) 14 SCC 466 in the case of Shakson Belthissor Vs. State of Kerala and anr, in which the Hon'ble Supreme Court of India held as follows :-

"28. The said section contains an explanation, which defines "cruelty" as

understood under Section 498A IPC. In order to understand the meaning of the expression 'cruelty' as envisaged under Section 498A, there must be such a conduct on the part of the husband or <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 relatives of the husband of woman which is of such a nature as to cause the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman.

29. When we examine the facts of the present case particularly the FIR and the charge sheet we find that there is no such allegation either in the FIR or in the charge sheet making out a prima facie case as narrated under explanation

(a). There is no allegation that there is any such conduct on the part of the appellant which could be said to be amounting to cruelty of such a nature as is likely to cause the Respondent No. 2 to commit suicide or to cause any injury to her life. The ingredient to constitute an offence under explanation (a) of Section 498A IPC are not at all mentioned either in FIR or in charge sheet and in absence thereof, no case is made out. Therefore, explanation (a) as found in Section 498A IPC is clearly not attracted in the present case.

30. We, therefore, now proceed to examine as to whether the case would fall under explanation (b) of Section 498A of IPC constituting cruelty of the nature as mentioned in explanation (b). In order to constitute cruelty <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 under the said provision there has to be harassment of the woman with a view to coercing her or any person related to her to

meet any unlawful demand for any property or valuable security or a case is to be made out to the effect that there is a failure by her or any person related to her to meet such demand. When the allegation made in the FIR and charge sheet is examined in the present case in the light of the aforesaid provision, we find that no prima facie case even under the aforesaid provision is made out to attract a case of cruelty.

31. The marriage between the appellant and Respondent No. 2 was performed on 23.10.1997 when it is alleged that Rs. 5 lakhs was given by the parents of Respondent No. 2 to the family of appellant as dowry. The FIR was filed in the month of April, 2002 and in the said FIR there is no allegation that subsequent thereto any harassment was made by the appellant with a view to coercing her or any person related to Respondent No. 2 to meet any unlawful demand or any property. In that view of the matter neither explanation (a) nor explanation (b) of Section 498 A of IPC is attracted in the present case.

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32. It is crystal clear that neither in the FIR nor in the charge sheet there is any ingredient of Section 498A IPC, which could prima facie constitute a case of cruelty as defined in that Section. It is thus established that on a reading of the FIR as also the charge sheet filed against the appellant no case under Section 498A is made out on the face of the record, and therefore, both the FIR as also the charge sheet are liable to be quashed in exercise of the powers under Section 482 of the CrPC. Clearly, the High Court failed to appreciate the facts in proper perspective, and therefore, committed an error on the face of the record."

14. He also relied upon the judgment of Hon'ble Supreme Court of India reported in (2014) 13 SCC 567 in the case of Swapnil and ors Vs. State of Madhya Pradesh, as follows :-

11. The second respondent has been living separately since April, 2011 and hence, there is no question of any beating by the appellants as alleged by her. The relationship having got strained ever since April, 2011, even application for restitution of conjugal rights having been <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 withdrawn on 16.04.2012 as the second respondent was not interested to live together, it is difficult to believe that there is still a demand for dowry on 30.04.2012 coupled with criminal intimidation. The allegations are vague and bereft of the details as to the place and the time of the incident. We had called for the records and have gone through the same. The materials before the learned Judicial Magistrate First Class, Indore are not sufficient to form an opinion that there is ground for presuming that the accused appellants have committed the offence under the charged Sections. The Additional Sessions Court and the High Court missed these crucial points while considering the petition filed by the appellants under Section 397 and Section 482 of the Cr.PC respectively. The veiled object behind the lame prosecution is apparently to harass the appellants. We are, hence, of the view that the impugned prosecution is wholly unfounded."

15. In another judgment reported in (2017) 9 SCC 413 in the case of Varala Bharath Kumar Vs. State of Telangana and anr, the Hon'ble Supreme Court of India held as follows:-

8. We are conscious of the fact

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that, Section 498A was added to the Code with a

view to punish the husband or any of his relatives, who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. Keeping the afore-mentioned object in mind, we have dealt with the matter. We do not find any allegation of subjecting the complainant to cruelty within the meaning of Section 498A of IPC. The records at hand could not disclose any willful conduct which is of such a nature as is likely to drive the complainant to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the complainant. So also, there is nothing on record to show that there was a demand of dowry by the appellants or any of their relatives, either prior to the marriage, during the marriage or after the marriage. The record also does not disclose anywhere that the husband of the complainant acted, with a view to coerce her or any person related to her to meet any unlawful demand of any property or valuable security.

9. The ingredients of criminal breach of trust are also not forthcoming from the records as against the appellants. The allegations contained in the complaint and the charge sheet do not <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 satisfy the definition of criminal breach of trust, as contained in Section 405 of the I.P.C. In view of the blurred allegations, and as we find that the complainant is only citing the incidents of unhappiness with her husband, no useful purpose will be served in continuing the prosecution against the appellants. This is a case where there is a total absence of allegations for the offences punishable under Section 498A and Section 406 of the I.P.C. In the matter on hand, the allegations made in the First Information Report as well as the material collected during the investigation, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute the offences punishable under Section 498A and 406 of the IPC against the accused/appellants. So also the uncontroverted allegations found against the appellants do not disclose the commission of the offence alleged and make out a case against the accused. The proceedings initiated against the appellants are liable to be quashed. In the above cases, the Hon'ble Supreme Court of India held that the word "cruelty" has envisage under Section 498A of IPC there must be such a conduct on the part of the husband or relatives of the husband of woman which <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 is of such a nature as to cause the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman.

16. In the case on hand, there is no such allegations in the FIR as well as the statement of the witnesses. The ingredients to constitute the offence under explanation A of 498 of IPC are not at all mentioned in the FIR and also in the statement of the witnesses. When the absence there of, no offence is made out under Section 498A of IPC as against the petitioner. Insofar as the offence under

Section 406 of IPC is concerned the allegation made in the FIR as well as the statements do not satisfy the definition of the criminal breach of trust as contained in Section 405 of IPC. It is relevant to extract the offence under Sections 405 of IPC as follows :-

"405. Criminal breach of trust Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal http://www.judis.nic.in CRL.O.P.No.4373 of 2020 contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".

406. Punishment for criminal breach of trust Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

The entire allegations are bald and vague and no ingredient is there to attract the offence under Section 406 of IPC.

17. On perusal of the petition filed by the second respondent in H.M.O.P.No.504 of 2017 for restitution of conjugal rights, she stated that only because of the parents of the petitioner herein, there was misunderstanding between them. She further stated that there is no difference of opinion whatsoever between the petitioner and the second respondent and their separation was not on account of them and it is because of her in-laws. Therefore the present impugned proceeding is nothing but after thought and it is clear abuse of process of law. After filing the divorce petition, restitution of conjugal rights petition and also the domestic violence complaint, the present complaint has been lodged by the second respondent. Therefore it is nothing http://www.judis.nic.in CRL.O.P.No.4373 of 2020 but only to wreck vengeance as against the petitioner, the complaint has been lodged by the second respondent.

18. In this regard it is relevant to rely upon the judgment reported in (1992) SCC CrI. 426 in the case of Bajanlal v. State of Haryana, wherein the Hon'ble Supreme Court 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.:

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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."

19. Therefore the entire proceedings is liable to be quashed and it cannot be sustained, since no offence is made out as against the petitioner as alleged by the prosecution. There is absolutely no

ingredient to prove the charges for the offences punishable under Sections 498A and 406 of IPC, as against the petitioner. The allegations made in the final report as well as the <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 materials collected during the investigation, even if they are taken their face value, the acceptability of their entirety do not constitute the offences punishable under Sections 498A and 406 of IPC as against the petitioner herein. Therefore, there is absolutely no possibility of conviction to the petitioner for the offences under Sections 498A and 406 of IPC. Therefore, the petitioner need not go for ordeal of trial. As such the judgments cited by the learned counsel for the second respondent are not helpful to the case of the second respondent.

20. Accordingly, this criminal original petition is allowed and the proceeding in C.C.No.415 of 2019 on the file of the learned Judicial Magistrate-1, Tiruvallur, is hereby quashed. Consequently, connected miscellaneous petitions are also closed.

30.09.2020 Internet : Yes / No Index : Yes / No Speaking / Non Speaking order rts <http://www.judis.nic.in> CRL.O.P.No.4373 of 2020 To

1. The Judicial Magistrate-1, Tiruvallur.
2. The Inspector of Police, All Women Police Station, Tiruvallur.
3. The Public Prosecutor Madras High Court, Chennai.

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rts CRL.O.P.No.4373 of 2020 and Crl.M.P.Nos.2508 & 2509 of 2020 30.09.2020 <http://www.judis.nic.in>