

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.14710 of 2015

and

M.P.Nos.1 & 2 of 2015

1. M.Jayaraman
2. Victoria
3. M.J.Sampath
4. S.Selvamary

... Petitioners/Accused
2 to 4

Vs

1. The Inspector of Police,
B1, Thiruvallur Town Police Station,
Thiruvallur.

2. R.Latha

... Respondents/Complainant &
Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., praying, to call for the records in C.C.No.296 of 2014 on the file the Hon'ble Judicial Magistrate No.1, Thiruvallur and quash the same.

For Petitioners : Mr.M.Vijayakumar

For Respondent : Mr.C.Emalias,
Addl Public Prosecutor

ORDER

This Criminal Petition has been filed praying to call for the records in C.C.No.296 of 2014 on the file the Hon'ble Judicial Magistrate No.1, Thiruvallur and quash the same.

2. Heard Mr.M.Vijayakumar, learned counsel for the petitioners and Mr.C.Emalias, learned Additional Public Prosecutor appearing for the respondent.

3. Heard Mr.Vijayakumar, learned counsel for the petitioner. It is seen that the defacto complainant is the wife of A1. It is seen that they got married in the year 1999 and they have two children through their wedlock. It is alleged by the defacto complainant that she was separated from her husband for sometime and on 08.05.2013, she lodged a complaint before the B1, Police Station, Thiruvallur. Her husband came

to the police station and accepted to take her to his house. While, she was living in the said house, it is alleged by the defacto complainant that she was subjected to cruelty by her husband and one particular day namely on 09.08.2013, the accused abused and pulled her saree in the public place.

4. On the complaint lodged by the defacto complainant, the respondent police registered a case in Crime No.357/2013 for offences under sections 294,323,506(1)IPC r/w 4 of Women Harassment Act against the accused herein and after completing investigation, a Final Report in C.C.No.296 of 2014 has been filed for the aforesaid offences before the learned Judicial Magistrate No.1, Thiruvallur, challenging which, A2 to A4 are before this court in this quash petition.

5. Mr.Vijayakumar, learned counsel for the petitioner/A2 also pointed out that the defacto complainant has not given the actual date of incident. He would further submit that A2 has already given a complaint on 17.07.2013 about the activity of the defacto complainant and has unnecessarily roped all the family members into this case.

6. This court perused the Final Report and found that the defacto complainant has stated that the alleged incident had taken place on the day on which the complaint has been prepared namely on 09.08.2013. Therefore, it cannot be stated that there are no materials on record for a full fledged trial.

7. The Hon'ble Supreme Court in State of Haryana Vs Bhajan Lal reported in 1992 Supp [1] SCC 335, has laid down the guideline for quashing a criminal prosecution. This Court cannot quash the Final Report as this case does not satisfy the guideline laid down in the said Judgment. This petition is devoid of merits and hence stands dismissed.

8. At this juncture, learned counsel for the petitioner submits that the presence of A2 and A3 before the trial court may be dispensed with.

9. This court directs that the accused A2 and A3 should be present for receiving copies under section 207 Cr.P.C, for answering charges, for questioning under section 313 Cr.P.C, on the day of judgment. For the other hearings if the accused A2 and A3 file a petition undertaking that their counsel will cross examine the witnesses, even in their absence and that they will not unnecessarily take adjournment and that they will not dispute their identity, the Trial Court is directed to liberally consider the petition and dispense with their presence.

10. With the above observation, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Nvi

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.I,
Thiruvallur
2. The Chief Judicial Magistrate,
Thiruvallur
3. The Inspector of Police,
B1, Thiruvallur Town Police Station,
Thiruvallur
4. The Public Prosecutor,
High Court, Madras.

+1 C.C. To MR.J.SARAVANA VEL, Advocate in Sr.No.29746

+1 C.C. To MR.M.VIJAYAKUMAR, Advocate in Sr.No.30012

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and

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MSM (CO)

sd : 01/07/2015

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