



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2015

CORAM:

THE HONOURABLE **MS.JUSTICE R.MALA**

CRL.O.P. (MD) No.19963 of 2015

WEB COPY

1.M.Lakshmi
2.E.Viji @ Vijayalakshmi .. Petitioners/Accused Nos.2 and 3

Vs.

1.The Inspector of Police,
Kayathar Police Station,
Tuticorin District.
(Cr.No.416/2008) ..1st Respondent/Complainant

2.Shanthi ..2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.110 of 2009 on the file of the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District and quash the same against the petitioner as illegal.

For Petitioners : Mr.M.Veilkani Raju
For Respondents : Mr.P.Kannithevan
Govt. Advocate (Crl. Side) for R1

O R D E R

The petitioners have come forward with this petition seeking to call for the records in C.C. No.110 of 2009 on the file of the learned Judicial Magistrate No.II, Kovilpatti, Tuticorin District and quash the same, stating that the petitioners are facing the charges under Sections 294(b), 323 and 506(i) IPC r/w Section 4 of Tamil Nadu Women Harassment Act.

2. The learned Counsel appearing for the petitioners submitted that as per Section 2(a) of Tamil Nadu Prohibition of Harassment of Women Act, 1998, no woman can be punished for the offence of Women Harassment Act, and that has been decided by this Court in the judgment in **Basheer Ahamed and others -vs- State rep.by the Inspector of Police, W 13, All Women Police Station, Washermenpet Circle, Chennai-21** reported in **2006 (4) CTC 374** and hence on this sole ground the petitioners/Accused Nos.2 and 3 pray for quashing the proceedings in respect of Section 4 of Tamil Nadu Women Harassment Act.



3. Resisting the same, the learned Government Advocate (Criminal side) appearing for the first respondent submitted that since the petitioners abused the de-facto complainant in a filthy language apart from attacking her with hands and stick, the provisions of the Tamil Nadu Woman Harassment Act, will get attracted. Hence, the learned Government Advocate (Criminal side) prays for dismissal of the petition.

4. Considering the rival submissions and on perusal of the typed set of papers, it is seen that on the basis of the complaint given by the second respondent, the case has been registered and after due investigation charge sheet has been filed for the offences under Sections 294(b), 323 and 506(i) IPC r/w Section 4 of Tamil Nadu Women Harassment Act. Before, deciding the issue on hand, It is appropriate to incorporate the provisions of Section 2(a) of Tamil Nadu Prohibition of Harassment of Women Act, 1998, which reads as follows:-

Section 2(a). "harassment" means any indecent conduct or act by a man which causes or is likely to cause intimidation, fear, shame or embarrassment, including abusing or causing hurt or nuisance or assault or use of force".

In the decision in **Basheer Ahamed and others -vs- State rep.by the Inspector of Police, W 13, All Women Police Station, Washermenpet Circle, Chennai-21** referred to supra, in paragraph '9' it was held that there can be no allegation of harassment as against the woman. It is appropriate to incorporate the paragraph '9' reads as follows:

"9. There is a specific allegation of harassment as against the husband as well as the father-in-law by the de-facto complainant. Therefore, the first accused and the second accused will have to face trial. The petition is thus partly allowed. Going by the definition under Section 2(a) of the said Act, there can no allegation of harassment as against the woman. Therefore, the charges as against the mother-in-law (A-3) will have to be quashed."

5. Considering the facts and circumstances of the case and also the decision in **Basheer Ahamed and others -vs- State rep.by the Inspector of Police, W 13, All Women Police Station, Washermenpet Circle, Chennai-21**, it is a fit case for quashing the charge sheet for the offences under Section 4 of Tamil Nadu Women Harassment Act, against the petitioners who are A2 and A3. In respect of the other offences against the petitioners/A2 and A3 they have to face the case. Since the case is of the year 2009,



the learned Judicial Magistrate No.II, Kovilpatti, Tuticorin District is directed to dispose of the same within a period of four months from the date of receipt of a copy of this order.

6. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.II,
Kovilpatti, Tuticorin District.
- 2.The Inspector of Police,
Kayathar Police Station,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Veilkani Raju, Advocate Sr.No.61441
gsr
AA/SK-SKN/03.11.2015/3p-5c

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15.10.2015.