



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CrI.O.P.(MD)No.22527 of 2015
and M.P(MD)Nos.1 & 2 of 2015

1.Saravanan
2.Chinnayya
3.Sigappi

... Petitioners/Petitioners

Vs.

1. The Inspector of Police,
All Women Police Station,
Tirupathur,
Sivagangai District.
(Crime No.9 of 2011)

... 1st Respondent/Complainant

2. C.Sathya

... 2nd Respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the case in C.C.No.79 of 2012 on the file of the Judicial Magistrate, Tirupathur, Sivagangai District and quash the same.

For Petitioners : Mr.B.Jameel Arasu
For R - 1 : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

ORDER

The petitioners have come forward with this petition, seeking to quash the proceedings in C.C.No.69 of 2012, pending on the file of the Judicial Magistrate, Tirupathur, Sivagangai District.

2. The case of the petitioners is that the second and third petitioners are the parents of the first petitioner and none of the petitioners committed any offence, much less the offence mentioned in the complaint and that they have been falsely implicated in the case. The second respondent has given a complaint, in which, originally five persons were arrayed as accused and while filing the charge-sheet before the Judicial Magistrate, Tirupathur, which was taken on file as C.C.No.79 of 2012 for the offences under Sections 417, 420, 506(ii) of the



Indian Penal Code read with Section 4 of Tamil Nadu Women Harassment Act as against the petitioners. According to them, they are law abiding citizens and they have been falsely implicated in this case. It is the further case of the petitioners that a false complaint has been given by the second respondent stating that the first petitioner fell in love with the second respondent and promised to marry her and that there was a physical relationship with the consent and thereafter, she was ill-treated and hence, the offences mentioned supra were not attracted and it is unwarranted. It is the further case of the petitioners that the second respondent already got married with one Pandian on 8th February, 2015 and she is pregnant now.

3. The case of the prosecution is that the second respondent was a major, but, however, the first petitioner has made a false promise to marry her and committed the offences, more particularly, Sections 417 and 420 of the Indian Penal Code, apart from other provisions of the various enactments.

4. In reply, the counsel for the petitioners submitted that the second and third petitioners are nowhere connected in the incident and they have been roped in this case unnecessarily and they are very old.

5. Since this a disputed question of fact, this Court cannot go into those details, as it is the matter for evidence and the matter is pending before the Judicial Magistrate, Tirupathur and is pending since 2012.

6. In view of the Judgment of the Hon'ble Supreme Court in **HMT Watches Ltd., Vs. M.A.Abida & Another** reported in (2015(2) CTC 446) wherein, it has been held that quashing of criminal complaint on disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaint, I am not inclined to grant the relief as sought for by the petitioners.

7. While this Court is about to dismiss the Criminal Original Petition, the learned counsel appearing for the petitioners submitted that the presence of the petitioners before the trial Court may be dispensed with throughout the trial.

8. Taking note of the old age of the second and third petitioners, this Court directs the trial Court to dispense with the **personal appearance of the petitioners including the first petitioner** before it, upon the petitioners swearing to an affidavit informing their address for service, that they duly would be represented by their counsel on all hearing dates, that they would, at no instance, dispute their identity and that, they would appear before the trial Court, as and when required. Upon the petitioners doing so, the trial court may seek the



presence of the petitioners before it, solely on the important hearing dates.

9. The trial Court is also directed to take up the matter as expeditiously as possible and the matter shall not be adjourned beyond three working days, at any point of time, and take a decision on merits.

10. With the above observations, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Tirupathur, Sivagangai District.
2. The Inspector of Police,
All Women Police Station,
Tirupathur,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.B.JAMEEL ARASU, ADVOCATE IN SR NO. 68406

PS
TE/SKS-RR/ : 09/12/2015 : 3P/5C

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