

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.10040 of 2016

and CrlMP No.5340 of 2016

B.Naresh Kumar Petitioner

Vs

1.State of Tamil Nadu rep.by
The Inspector of Police,
W-3, All Women Police Station,
Chintadripet,
Chennai-600 002.

2.Deepika ... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in CC No.3754 of 2015 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai.

For Petitioner :Prof.M.Udayabhanu

For Respondents :Mr.M.Mohamed Riyaz
Government Advocate (Crl.Side)

ORDER

This petition has been filed to quash the proceedings in CC No.3754 of 2015 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai.

2.Learned counsel for the petitioner submitted that on the complaint lodged by the 2nd respondent, the 1st respondent police registered a case in Crime No.2 of 2015 on 25.03.2015 and after completing the investigation, filed a final report in CC.No.3754 of 2015 before the learned XVI Metropolitan Magistrate, Egmore, Chennai, for offences under Section 4 of the Tamil Nadu Prevention of Women Harassment Act, challenging which, the petitioner has filed the present petition before this Court.

3.Learned counsel for the petitioner further submitted that

the petitioner is none other than the uncle of the defacto complainant and that the entire prosecution is false.

4. On reading of the Final Report dated 23.07.2015, it is seen that the defacto complainant is the niece of the petitioner and she was studying in XII Standard. It is alleged by the defacto complainant that the petitioner is a married person, despite which, he has been sending overtures and messages to the defacto complainant. It is specifically averred in the final report that on 23.03.2015, about 08.45am, when the defacto complainant was in Purasaiwalkkam, the petitioner asked her to accompany him to Mahabalipuram.

5. Learned counsel for the petitioner contended that on 23.03.2015, the petitioner was not available at the said place.

6. As the plea of alibi cannot be gone into in a proceeding under Section 482 of CrPC, it is left open to the trial Court to decide upon the issues. Since there are prima facie materials for the prosecution to proceed, this Court cannot interfere and quash the proceedings under Section 482 CrPC.

7. In view of the above, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the points before the trial Court.

8. At this juncture, the learned counsel for the petitioner submitted that the personal appearance of the petitioner may be dispensed with before the Trial Court.

Accepting the submission of the learned counsel for the petitioner, this Court directs the petitioner to appear before the Trial Court for receiving papers under Section 207 Cr.P.C, at the time of framing charge and for examination under Section 313 Cr.P.C and on the day of Judgment. His appearance may be dispensed with on the other dates, if the petitioner files a petition undertaking that his counsel will cross examine the witnesses, even in his absence and he will not unnecessarily take adjournments and he will not dispute his identity. The Trial Court is directed to liberally consider the same. If the petitioner adopts dilatory tactics, the Trial Court is entitled to insist the presence of the petitioner. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

To

1.The XIV Metropolitan Magistrate,
Egmore, (Now function at allikulam complex
Park Town
Chennai.

2.-do-Thro The Chief Metropolitan Magistrate
Egmore, Chennai-8

3.The Inspector of Police,
W-3, All Women Police Station,
Chintadripet,
Chennai-600 002.

4.The Public Prosecutor,
High Court, Chennai.

+1 cc to Mr.M.Udaya Bhanu vide sr.33381

Crl.OP.No.10040 of 2016
and CrlMP No.5340 of 2016

skv(co)
aa01/07/2016



WEB COPY