

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2016
CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.16440 of 2016
and CRL.MP.Nos.7983 & 7984 of 2016

K.Ravichandran .. Petitioner
Vs

1.The Inspector of Police,
Mandharakuppam Police Station,
Neyveli, Cuddalore.

2.Latha .. Respondents

Criminal Original Petition filed under Section 482
Cr.P.C., to call for the records pertaining to C.C.No.51 of 2016
on the file of the District Munsif-cum-Judicial Magistrate,
Neyveli and quash the same.

For Petitioner : Mr.M.Selvam
For 1st Respondent : Mr.C.Emalias, APP

O R D E R

This petition has been filed to quash the proceedings in
C.C.No.51 of 2016 on the file of the District Munsif-cum-
Judicial Magistrate Court, Neyveli.

2. Heard the learned counsel for the petitioner; learned
Additional Public Prosecutor appearing for the 1st respondent
and perused the materials placed on record.

3. On the complaint lodged by the 2nd respondent, the
1st respondent Police registered a case in Crime No.66 of 2016
and after completing investigation, filed a final report in
C.C.No.51 of 2016 before the learned Judicial Magistrate,
Neyveli, under Section 294[b], 323 and 506[ii] IPC r/w Section 4
of TNWH Act against the petitioner. It is the case of the
de facto complainant that on 23.03.2016, when she was standing
next to her house and was talking to her husband over mobile
phone, the accused came behind her and tried to molest her and
when she resisted, he used disparaging words and also tore her

jacket. The de facto complainant was injured and she has also been treated in the Hospital.

4. Mr.Selvam, learned counsel for the petitioner submitted that the de facto complainant is a court staff and on account of that, the trial is being conducted at a breakneck speed. It is submitted that on 24.06.2016, the accused was served with notice under Section 207 Cr.P.C. and on 11.07.2016, he was questioned and charges were framed against him, for which he pleaded 'not guilty'. On 11.07.2016, when LW1 was present in the Court, the counsel for the accused had filed a memo stating that he has filed a quash application in the High Court.

5. Mr.Selvam further contended that when the counsel had filed such a memo, the witness should not have been examined. The learned counsel also produced the docket entry dated 19.07.2016 which reads as follows:

"Accused present. LW1 examined as PW1. Ex.P1, P2 marked. LW2 examined as PW2. Counsel for accused filed memo stating that he prayed quash of FIR but no Cr1.OP. number or no stay order. LW3, LW4, LW5 and LW6 are examined as PW3, PW4, PW5 & PW6 respectively. F/s to LW7 to LW9 by 27.07.2016."

6. The Registry of this Court has issued a Circular to all the Judicial Officers, not to adjourn cases on the mere ground that the party has filed petition in the High Court, in the absence of any stay order given by the High Court. If the Subordinate Judicial Officers do not obey the High Court's Circular, they will face disciplinary action. Only in those circumstances, the learned Magistrate has refused to pay heed to the memo and has proceeded to examine the witnesses. Section 309 Cr.P.C. clearly states that when a witness is present in the Court, no adjournments or postponement shall be granted, even if the Pleader is engaged in any other Court.

7. Mr.Selvam, learned Counsel for the petitioner relied upon the judgment of the Division Bench of this Court in Paulraj Vs State rep. by its Inspector of Police, Annadanapatty Police Station, Salem District -[2014] 4 MLJ [Cr1] 641, wherein, this Court had set aside the conviction and sentence of the accused therein, on the ground that the Police and the Court had shown undue haste in conducting the trial and sentencing the accused in a capital charge.

8. The facts of the above referred case do not apply herein, because, even according to Mr.Selvam, learned counsel for the petitioner, the adjournments are not day-to-day. Therefore, there is no merit in the contention of the petitioner. Since there are prima facie materials in the final

report, the same cannot be quashed. However, the accused also has got a right to fair trial by cross-examining the witnesses. Liberty is given to the petitioner/accused to file an application under Section 311 Cr.P.C. for recalling the witnesses and on such petition being filed, the same shall be considered on merits, so that the accused does not lose an opportunity to cross-examine the witnesses.

With the above observation, this petition is closed. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Munsif-cum-Judicial Magistrate,
Neyveli, Cuddalore District.

2.The Inspector of Police
Mandharakuppam Police Station
Neyveli Cuddalore

3.The Public Prosecutor High Court
Madras

+1 cc to Mr.M.Selvam Advocate sr.43197

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