

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.No.7025 of 2016
and
Cr1MP.Nos.3667 and 3668 of 2016

1.Pradeep
2.M.Usha

...Petitioners/Accused 1 & 2

Vs.

1.State by
The Inspector of Police,
K-2, Ayanavaram Police Station,
Chennai.

2.B.Rajalakshmi

...Respondents/Complainant/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records in CC.No.1843 of 2015 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai-8 and to quash the proceedings.

For Petitioners :Mr.G.Hari Hara Arun Soma Sankar

For Respondents :Mr.C.Emalias
Additional Public Prosecutor for R1

सतममेन जयते
O R D E R

This petition has been filed to quash the proceedings in C.C.No.1843 of 2015 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, for offences punishable under Sections 323 and 506(i) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998.

2.The learned counsel appearing for the petitioners submitted that on the complaint given by the 2nd respondent, who is the mother-in-law of the 1st petitioner, a case in Crime No.17 of 2014 has been registered against the 1st petitioner and the 2nd petitioner, who is the mother of the 1st petitioner, for offences punishable under Sections 323 and 506(i) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998. Investigation has been done and charge sheet filed was taken on file in C.C.No.1843 of 2015 on the file of the

learned V Metropolitan Magistrate, Egmore, Chennai, for offences punishable under Sections 323 and 506(i) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998.

3.The learned counsel appearing for the petitioners further submitted that the 2nd petitioner is a lady. As per Section 2(a) of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, she cannot be prosecuted. To substantiate the same, the learned counsel appearing for the petitioners relied upon the decision of this Court made in Basheer Ahamed and others v. State, rep.by The Inspector of Police, W13, All Women Police Station, Washermenpet Circle, Chennai-21 reported in 2006 (4) CTC 374. He further submitted that the offences punishable under Sections 323 and 506(i) IPC are non-cognizable offences in nature and therefore, the 1st respondent has no jurisdiction to register an FIR for the alleged offences against the petitioners. The offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, is not applicable against the 2nd petitioner. He further submitted that without obtaining permission from the learned Judicial Magistrate, investigation has been done and charge sheet has been filed. Hence, prays for quashing the proceedings.

4.At the time of admission, arguments heard in length and notice to the respondents No.2 is dispensed with.

5.The Learned Additional Public Prosecutor appearing for the 1st respondent submitted that the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, against the petitioners is attracted. Further, the case has been registered only for this offence. So, the police has empowered to investigate the matter, since it is a cognizable offence. Therefore, he prays for dismissal of this petition.

6.Considering the rival submissions made on both sides and on perusal of the typedset of papers, on the basis of the complaint given by the 2nd respondent, the case in Crime No.17 of 2014 has been registered for offences punishable under Sections 323 and 506(i) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 against the petitioners. Insofar as Sections 323 and 506(i) IPC are concerned, they are non-cognizable offences. Hence, the permission from the territorial Magistrate is necessary. Insofar as Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, is concerned, it is not necessary for obtaining permission from the territorial Magistrate to investigate the matter. Since the case has been registered for the offences punishable under Sections 323 and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, I am of the view that the permission of the Magistrate is not necessary for investigating the matter.

7. In such circumstances, the arguments adduced by the learned counsel appearing for the petitioners that the entire proceedings are vitiated, since the investigation has been done and charge sheet has been filed without obtaining permission from the territorial Magistrate, does not merit acceptance.

8. It is appropriate to consider Section 2(a) of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, which deals with "harassment", is as follows:

(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;"

As per Section 2(a) of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, it has been specifically mentioned that "harassment" means "any indecent conduct or act by a man".

9. In the case on hand, the 2nd petitioner is the mother-in-law, in such circumstances, I am of the view that the 2nd petitioner shall not be prosecuted for the offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998. Hence, I am of the opinion that the proceedings in CC.No.1843 of 2015 is quashed in respect of 2nd petitioner only for offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998. In all other respects, the offences registered against both the petitioners shall remain unaltered.

Accordingly, this Criminal Original Petition is partly allowed. The trial Court is directed to dispose of CC.No.1843 of 2015 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, for offences punishable under Sections 323 and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, against the 1st petitioner and for offences punishable under Sections 323 and 506(i) IPC against the 2nd petitioner, within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

mps

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The V Metropolitan Magistrate,
Egmore,
Chennai.

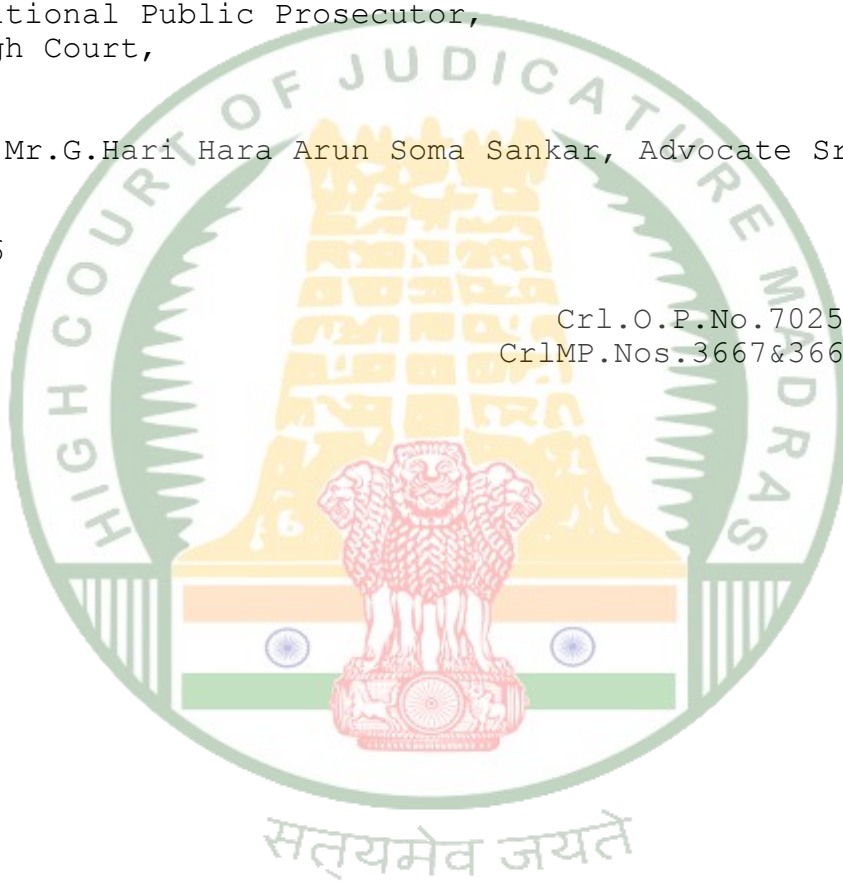
2.The Inspector of Police,
K-2, Ayanavaram Police Station,
Chennai.

3.The Additional Public Prosecutor,
Madras High Court,
Madras.

+ 1 cc to Mr.G.Hari Hara Arun Soma Sankar, Advocate Sr 20011

KR/22/4/16

Cr1.O.P.No.7025 of 2016&
Cr1MP.Nos.3667&3668 of 2016



WEB COPY