

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.No.23247 of 2017
and M.P.Nos.13543 and 13575 of 2017

Iyswarya

...Petitioner/Accused No.3

-Vs-

1. State by Inspector of Police,
All Women Police Station,
Ammamet, Salem City,
Crime No.5/17 ...Respondents/Complainant
2. Tamilarasi ... Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records with respect of the charge sheet in C.C.No.82 of 2017 on the file of the Additional Mahila Court (Magisterial Level), Salem and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondents: Mr.C.Iyyapparaj
Addl. Public Prosecutor for R1
Mr.E.C.Ramesh for R2.

O R D E R

This petition is filed to call for the records with respect of the charge sheet in C.C.No.82 of 2017 on the file of the Additional Mahila Court (Magisterial level), Salem and quash the same.

2. The petitioner herein is the sister-in-law of the second respondent/de-facto complainant herein. The complaint came to be filed on 26.06.2017. On a perusal of the complaint as well as 161 statements of the witnesses, it is seen that none of the incident referred to in the complaint and the statements also does not carry any specific particulars like date or time of the occurrences. All the allegations are vague, in so far as the relatives to the petitioner herein are concerned. Further more, the statements recorded under Section 161 Cr.P.C. are that of

the second respondent and her parents alone and there are no independent witnesses. Even otherwise, the allegation made against the petitioner herein does not make out the offence under Sections 294(b), 498(A) IPC. In view of its vagueness, I am of the view that the petitioner has been unnecessarily implicated in the offences aforesaid.

3. The learned counsel for the petitioner has produced a certificate from "Happy Home Ladies Hostel", which certifies that the petitioner was residing in the hostel from 13.07.2014 to 31.12.2015 for pursuing competitive examinations to be conducted by the TNPSC and the Staff Selection Commission. Apart from that, admission form dated 13.07.2014 has also been produced before this Court. After 31.12.2015, the petitioner has been staying in a private house along with her friends for the purpose of pursuing her carrier which is evidenced from a rental agreement dated 02.02.2016. All these documents establishes that the petitioner seldom lived in the matrimonial house of the second respondent from 13.07.2014 onwards. While that being so, I am unable to apprehend as to how the petitioner could be implicated for the offences.

4. The learned counsel for the second respondent on the other hand vehemently opposed the arguments made by the petitioner and submitted that the offences have been made out and that these are all the matters which have to be tested during the time of trial.

5. I am not in agreement with the submission made by the second respondent in view of the fact that this criminal original petition deserves to be allowed on the ground that the allegations against the petitioner are very vague in nature and there are sufficient materials placed before this Court to show that the petitioner was not ordinarily living in the matrimonial house of the second respondent during that period. Apart from that, it is also seen that the allegation made against the petitioner was during the year 2014. It is also seen that the second respondent has subsequently condoned all the acts of cruelty and had been happily living with her husband and a child was also born to them on 24.11.2016. After having condoned all these acts of cruelty it would not be appropriate to appreciate the grievance against the petitioner which occurred in the year 2014. The delay in filing the criminal complaint after three years is also not justifiable and coupled with the vagueness in the complaint, the entire averments seems to be concocted or exaggerated to make out a criminal offence.

6. It would not be out of place to mention here that the petitioner has now been selected for Grade I and Grade II competitive selection exam conducted by the TNPSC. In view of

the present criminal proceedings pending against the petitioner herein, there is a likelihood that this proceeding may be an impediment for her appointment. Nevertheless, this Court has found that no criminal case has been made against the petitioner and hence it would not be appropriate to subject the petitioner to undergo the ordeal of the trial.

7. In the result, the criminal original petition stands allowed. The proceedings against the petitioner in C.C.No.82 of 2017 on the file of the Additional Mahila Court (Magisterial Level), Salem is quashed. It is further clarified that the complaint registered against the petitioner and the filing of charge sheet should not be quoted as an impediment for any of her employment or selection for the civil services exam. It is also made clear that I have not expressed any of my view with regard to the overtacts made against the other accused.

8. With the above observations this criminal original petition stands allowed. Connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Additional Mahila Court (Magisterial Level), Salem
2. The All Women Police Station, Ammapet, Salem City,
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.82683

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NRJK(CO)
CS/23/11/17