

CORAM:
THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Mrs.Vinitha Paul Vs. ...Petitioner/Accused No.1

2.Jannet Sebastian ...2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in S.T.C.No.2395 of 2009, pending on the file of the learned Judicial Magistrate, Uthagamandalam and quash the same in respect to the petitioner herein.

For Petitioner : S.N.Thangaraj

For Respondents: Mr.T.Shunmuga Rajendran
Government Advocate (CrI.side) for R1

```
No appearance for R2
*****
```

O R D E R

This Criminal Original Petition is filed to quash the proceedings pending against the petitioner in STC.No.2395 of 2009 on the file of the learned Judicial Magistrate, Uthagamandalam.

2. Based on the complaint lodged by the defacto complainant, the first respondent police registered a case in Crime No.535 of 2007 and after investigation, final report was filed in STC.No.2395 of 2009, as against the petitioner, for the offences punishable under Section 4(a)(i) of the Indecent Representation of Women (Prohibition) Act, 1986, read with Section 6 of the Indecent Representation of Women (Prohibition) Act, 1986. For better appreciation, the Final Report is extracted thus:

"The witness Mrs. Jenet Sebastian, W/o. Sebastian working as a Principal at Rex Senior Secondary School, Ootackamund, since 2000. The witness Jenet Sebastian receiving

anonymous Vulgar languages letters regularly by Post from herself and School Staff, when she had took change of the post of a Principal. During the course of Investigation, Specimen of Tamil and English hand writings was taken from the suspected persons and the same to document experts, FS Department, Chennai. The Document expert Identified the anonymous Vulgar Languages letters prepared and sent by the accused noted in the final report. A1 Vinitha Paul and A2 Sundaram are there by the accused noted in the Final Report. A1 and A2 committed an offence punishable U/s. Section 4(a) (i) of the Indecent Representation of Women (Prohibition) Act, 1986.

Hence, the final report."

3. Heard the learned Counsel appearing for the respective parties and perused the documents placed on record.

4. The contention of the learned counsel for the petitioner is that the final report was filed as against this petitioner under Section 4(a) (i) read with Section 6 of the Indecent Representation of Women (Prohibition) Act, 1986, whereas, the enabling provision is only under Section 4 of the said Act and as such, the final report, which was filed under a wrong provision, is not maintainable. Perusal of record shows that the final report in STC.No.2395 of 2009 is still pending, without framing charges and therefore, this Court is of the view that while framing charges, the question as to the provision of law shall be raised before the learned Magistrate.

5. The next ground raised by the learned Counsel for the petitioner is that the present complaint was filed on 28.11.2007 and in the complaint itself, the complainant had stated about a previous complaint lodged by her on 07.08.2007. But the previous complaint dated 07.08.2007 was not placed on record and therefore, the subsequent complaint is hit by law and as such, the final report filed on the basis of two complaints is liable to be quashed.

6. Perusal of the complaint dated 28.11.2007 would disclose the fact that the complainant had lodged a complaint on 07.08.2007 itself for a letter received by her prior to 07.08.2007. But, even after that she was continuously receiving such type of anonymous letters and hence, the present complaint was lodged. It is seen from the records that the complainant was receiving such type of anonymous letters quite often and as it is a continuous offence, this ground raised by the petitioner lacks merits.

7. The learned counsel for the petitioner further submitted that only one letter was sent for Forensic Expert opinion, whereas, two persons were arrayed as accused. Answering this point, the learned Government Advocate appearing for the first respondent police, by placing reliance upon the Forensic Lab report, submitted that the suspected signatures tallied with the signatures of the accused and that the prosecution proceeded as against this petitioner. The learned Government Advocate had also drawn the attention of this Court to the statement given by the complainant that out of professional jealousy, in an Educational Institution, such type of anonymous letters have been written.

8. Considering the facts and circumstances of the case, this Court is of the view that the grounds raised by the petitioner are not enough for quashing the complaint lying before the trial Court. It is seen from the records that though the final report was filed as early as in the year 2009, trial before the trial Court has been stalled for all these years because of the pendency of the present criminal original petition. Under such circumstances, I am constrained to issue a direction to the trial Court to complete the trial within the stipulated time.

9. At this juncture, learned Counsel for the petitioner attempted to plead that though notice was served on the complainant, none appeared on her behalf and in the absence of the complainant, there is no useful purpose in proceeding with the complaint. This Court is not in a position to accede the said contention, inasmuch as it is not the case of the petitioner that the complainant remained absent before the trial Court. Because, there is no representation for the complainant before this Court only. It is not known whether none appeared on behalf of the complainant before the trial Court also.

10. In view of the foregoing discussions, this criminal original petition is dismissed. The learned Magistrate is directed to expedite the trial and dispose of the case as expeditiously as possible. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkp/rli/gk

To

1.The Judicial Magistrate,
Uthagamandalam.

2.The Sub Inspector of Police,
Ooty Town West Police Station,
Ooty.

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

Crl.O.P.No.24381 of 2009

SSD(CO)

rrs 08/03/2019