

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CRL.O.P.No.19532 of 2010 and M.P.No.1 of 2010

Thangarasu .. Petitioner

Vs.

1. The Inspector of Police,
Vikravandi Police Station,
Vikravandi,
Villupuram Taluk.

2. Rajeswari .. Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.255 of 2010 on the file of the learned Judicial Magistrate No.II, Villupuram and quash the same.

For the Petitioner : Mr.M.Gnanamoorthy for
Mr.N.Suresh

For the Respondent -1 : Mr.P.Govindarajan
Additional Public Prosecutor

For the Respondent-2 : Served No appearance

O R D E R

The petitioner herein is the first accused in C.C.No.255 of 2010 pending on the file of the learned Judicial Magistrate - II, Villupuram. The case has been registered on the basis of a complaint, in respect of an occurrence alleged to have taken place on 27.03.2010 at 11 P.M. A perusal of the records would show that the investigating officer examined the defacto complainant and four other witnesses, inspected, the place of occurrence, prepared observation mahazar and sketch and after completing the investigation, he lodged the charge sheet into the Court for the offences under Sections 294(b) and 448 and 506(i) of IPC read with 4 of Women Harassment Act. The Judicial Magistrate-II, Villupuram has taken cognisance and issued summons to the accused. Thereafter, the first accused has approached this Court by way of this petition to quash the proceedings against him.

2. The second respondent is the defacto complainant and on the basis of her complaint, the case has been registered.

3. The learned counsel for the petitioner would submit that the petitioner's wife gave a complaint against the defacto complainant, viz., Rajeswari and three others in respect of an occurrence that had taken place on 25.03.2010 and thereafter, the present case has been lodged by the defacto complainant and according to him, the investigating officer without investigating the complaint lodged by the wife of the petitioner laid the charge sheet and thereby violated clause 588A of Madras Police standing orders.

4. The learned Additional Public Prosecutor submitted that the complaint lodged by the petitioner's wife has been investigated and charge sheet has been filed and that case has nothing to do with the case on hand. According to him there are sufficient materials to proceed against the present petitioner.

5. Heard the arguments and perused the materials carefully.

6. There are materials in the form of statements recorded under Section 161 of CRPc. A perusal of the statements of the witnesses of the prosecution would show there are sufficient grounds to proceed against the petitioner. It is not a case, as projected by the petitioner, without materials. Powers under Section 482 CRPc have to be exercised cautiously. In the case at hand, criminal proceedings were challenged by taking factual defence. This Court cannot act as a trial Judge. It is for the Trial Court to decide the question of facts. Therefore, the petition is liable to be dismissed. For the reasons stated supra, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/ सत्यमेव जयते

Sub Asst. Registrar

adl

To

1. The learned Judicial Magistrate No.2,
Villupuram.
2. The Inspector of Police,
Vikravandi Police Station,
Vikravandi,
Villupuram Taluk.

3.The Public Prosecutor,High Court,Madras.

+1cc to Mr.N.Suresh,sr.5525

CRL.O.P.No.19532 of 2010
and M.P.No.1 of 2010

skv(co)
ss(16/3/2017)



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