



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE **S.S.SUNDAR**

CRL.O.P. (MD) No.16219 of 2017

and

CRL.M.P. (MD) No.10748 of 2017

Francis Ku Amalraj : Petitioner / Single Accused

Vs.

State rep. by

1. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai. : Respondent/Complainant

2. Banumathi : Respondent/De-facto complainant

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in Crime No.771 of 2017 dated 23.09.2017 on the file of the Town Police Station, Sivagangai and quash the same.

For Petitioner : Mr.N.Mohideen Basha
For R1 : Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

The Criminal Original Petition is filed to call for the records in Crime No.771 of 2017 dated 23.09.2017 on the file of the Town Police Station, Sivagangai and quash the same.

2. The petitioner is the sole accused in Crime No.771 of 2017, which was registered on the basis of the complaint given by the second respondent, for the offences punishable under Sections 294 (b), 323, 506(2) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 3 of Tamil Nadu Public Properties (Prevention of Damages and Loss) Act, 1992.

3. The learned Counsel for the petitioner has produced a certificate, given by the Commanding Officer of 2 (Tamil Nadu) Battalion NCC, Trichy to the effect that the petitioner is physically present and performing *bona fide* Military / NCC Duties at this NCC Unit during the period 10.09.2017 (an) to 16.09.2017 (fn) as per the records at this NCC unit. The learned Counsel for the petitioner has produced a further certificate, which was issued by the Administrative Officer of 2 (Tamil Nadu) Battalion NCC, Trichy, to the effect that the Officers and others have seen



the petitioner physically between 10.09.2017 (a.n.) and 16.09.2017 (f.n.) at NCC Unit 2(Tamil Nadu) Battalion NCC, Trichy.

4. Based on the two certificates, the learned Counsel for the petitioner tries to convince this Court that the petitioner is not present at the scene of occurrence and that the complaint is a false one.

5. This Court is not able to appreciate the statement of the learned Counsel for the petitioner. If the petitioner has got any record to show that he is not present at the time of occurrence, it is for the petitioner either at the time of investigation or at the time of trial to substantiate his case. Merely on the basis of the certificates obtained by the petitioner, with regard to alibi, this Court cannot accept the version of the petitioner at this stage.

6. Except the attempt to show that there is alibi, the petitioner has not raised any other legal ground in this petition to quash the criminal proceedings. Hence, this criminal original petition is dismissed with liberty to the petitioner to raise all his contentions or produce any other material either at the time of investigation or at the time of trial. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CMR

VB/KK/SAR3/12/12/2017/2P/3C

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