



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.03.2017
CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

WEB COPY

**Crl.O.P. (MD)No.2646 of 2017
and CRL.M.P. (MD) Nos.2023 and 2024 of 2017**

Muniyammal : Petitioner/Accused No.2

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Virudhunagar,
Virudhunagar District.
In Crime No.26 of 2016.

2.Mariya Natchathiram

: 1st Respondent/Complainant
: 2nd Respondent/Defacto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to the criminal case proceedings in C.C.No.7 of 2017 pending on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same against the petitioner.

For Petitioner : Mr.C.Jeyaprakash
For 1st Respondent : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

O R D E R

On the complaint lodged by the second respondent, the first respondent Police registered a case in Crime No.83 of 2016 on 02.11.2016 and after completing the investigation had filed final report and the same was taken on file in C.C.No.7 of 2017 by the Judicial Magistrate, Virudhunagar against four accused, challenging which, the second accused is before this Court.

2.It is the case of the defacto complainant that she got married to the first accused and she has children through him. While so, the first accused, who was working in Police developed intimacy with the second accused, who is also woman police constable and together both of them inflicted cruelty on the defacto complainant.

3.Learned counsel appearing for the second accused/petitioner submitted that except the allegations that the first accused is having illicit intimacy with the second respondent, there is no allegation made against the second respondent.



4. However, it is clearly averred in the final report that whenever the defacto complainant and her children were going through Allampatti Check Post, the second accused, who would be on duty would abuse the defacto complainant and her children. Since there are prima-facie materials as against the second accused, it is not a fit case for quashing the prosecution.

5. Learned Government Advocate would submit that the case is posted for appearance of the accused on 15.03.2017 by the learned Judicial Magistrate No.2, Virudhunagar.

6. At this juncture, learned counsel appearing for the petitioner submits that the presence of the petitioner before the Trial Court may be dispensed with.

7. Accepting the submission, this Court directs the petitioner to appear before the Trial Court at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, her personal appearance before the Trial Court is dispensed with on condition that she engage an advocate on special vakalat before the Trial Court and give an undertaking that she will not dispute her identity and her counsel will cross-examine the witnesses on the day when they are examined in chief. As and when her presence is necessary, the Trial Court shall issue notice to her through her counsel on record for her appearance.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.2, Virudhunagar.

2. The Inspector of Police,
All Women Police Station,
Virudhunagar, Virudhunagar District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.JEYAPRAKASH, Advocate, SR No. 14273

SJ

PSM/SV-MMS/27.03.2017/2P/5C