



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.3009 of 2017

and

CrI.M.P.Nos.2283 and 2284 of 2017

Thilaga

... Petitioner

-vs-

1.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District
Crime No.184/2013

2.A.Vasanthi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the impugned chargesheet in C.C.No.98/2013 on the file of Additional District Munsif cum Judicial Magistrate, Manamadurai and quash the same.

For Petitioner : Mr.V.Sasikumar

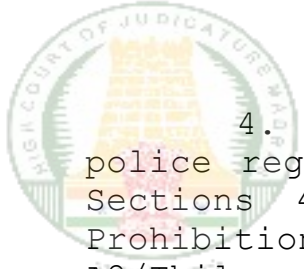
For Respondents : Mr.A.P.Balasubramani for R1
Govt. Advocate (CrI.Side)

O R D E R

This petition has been filed to quash the case in C.C.No.98/2013 on the file of Additional District Munsif cum Judicial Magistrate, Manamadurai.

2. Mr.K.Karunanithi, Special Sub Inspector of Police, Thiruppuvanam Police Station, Sivagangai District, is present before this Court today.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. side) for the first respondent.



4. On the complaint lodged by Vasanthi, the respondent police registered a case in Crime No.184/2013 for offences under Sections 498(A) and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act against A1/Madhavan and A2/Thilaga and after completing investigation, the respondent police has filed a charge sheet in C.C.No.98/2013 before the Additional District Munsif cum Judicial Magistrate, Manamadurai against Madhavan and Thilaga, challenging which, Thilaga (A2) is before this Court.

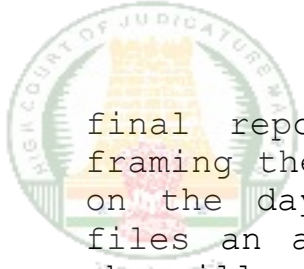
5. On a reading of the chargesheet, it is the case of the 2nd respondent that she got married to Madhavan/A1 on 11.06.2013 and has got two children. While so, Madhavan developed intimacy with the petitioner herein, who is said to be working as Woman Police Constable in the police Department and that Madhavan and the petitioner came to the house of the 2nd respondent some time in January 2013 and had assaulted the 2nd respondent.

6. The learned counsel for the petitioner submitted that on the allegations made in the chargesheet, offences under Section 498(A) IPC and Section 4 of Tamilnadu Harassment of Women Act cannot be maintained against the petitioner, since the petitioner is not a family member of the first accused of Madhavan and that she is only said to be having illicit intimacy with Madhavan.

7. In the considered opinion of this Court, the chargesheet filed by the police is not the on all and end all of the criminal prosecution. On the allegations made therein, the Court can alter the charges under Setion 216 Cr.P.C.

8. The learned counsel for the petitioner further contended that for the incident that is said to have taken place on January 2013, the FIR, in this case itself was registered only three months later and that the 2nd respondent has not even given the date on which the incident had taken place. In the considered opinion of this Court, the delay in registration of the FIR cannot be a reason to quash the prosecution. The witnesses can always explain the same during her evidence before the Court. As regards non furnishing of date of the incident, that also cannot be said to be fatal, because many at times, the victim may not remember the exact date. It all depends upon the station in life of the victim girl.

9. Under such circumstances, when there are prima facie materials for the trial to proceed, this is not a fit case to quash the case in C.C.No.98/2013. Hence, this criminal original petition is dismissed. At this juncture, the learned counsel for the petitioner prays for dispensing with the presence of the petitioner before the trial Court. Therefore, the presence of the petitioner before the trial Court is dispensed with. However, the petitioner shall appear before the Trial Court for collecting the



final report and other papers under Section 207 Cr.P.C., for framing the charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that she will not dispute her identity and that her counsel will cross-examine the prosecution witnesses in her absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Additional District Munsif cum Judicial Magistrate,
Manamadurai
- 2.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Sasikumar, Advocate Sr.No.15977

VB/SKN/RSK/SAR3/10.04.2017/3P/5C

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