



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.03.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH.J.,

CRL.O.P. (MD) No.3233 of 2017

&

CRL MP (MD) Nos.2459 & 2460 of 2017

1) Muthukumar
S/o. Malairaj,
Pasumpon Nagar,
Ramanathapuram

2) Nageswaran,
S/o. Aandi Thevar,
Vandikara Street,
Ramanathapuram.

...Petitioner/Respondent/Accused 2 & A3

Vs

01. State Rep. by,
The Inspector of Police,
All Woman Police Station,
Ramanathapuram District,
(Crime No.16 of 2014)

...1st Respondent/Complainant

02. V.Nambu sharmila,
W/o. Vijayakumar,
'D'- Block,
Sethupathi Nagar,
Ramanathapuram District.

...2nd Respondent/Defacto Complainant

Prayer: Criminal Petition filed under Article 482 of the Constitution of India, praying to call for the records in C.C.No.74 of 2015 on the file of the learned Judicial Magistrate No.I, Ramanathapuram and quash the same.

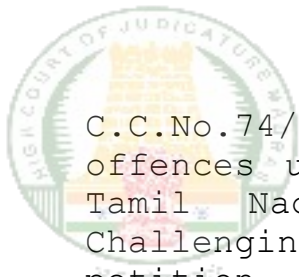
For Petitioners : Mr.C.Suresh Kannan

For Respondents : Mr.K.Anbarasan,

Government Advocate (Crl. Side)

ORDER

On the complaint lodged by the 2nd respondent, the first respondent registered a case in Crime No.16/2014 and after completing the investigation has filed chargesheet in



C.C.No.74/2015 before the Judicial Magistrate, Ramanathapuram for offences under Sections 294(b), 506(i) IPC and Section 4 of the Tamil Nadu Women Harassment Act, against three accused. Challenging which, A2 and A3 are before this Court with this petition.

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2.Heard Mr.C.Suresh Kannan for petitioners and learned Government Advocate Mr.K.Anbarasan, B.A.,B.L.,(Crl. Side) for the Respondents.

3.The learned counsel for the accused submitted that the entire case has been foisted by the de-facto complainant. He contended that on the complaint lodged by the husband of the de-facto complainant, a separate FIR has been registered in Crime No.507/2014 on 01.12.2014 by the Kenikkarai Police Station and subsequently on the complaint given by the de-facto complainant, the present case was registered, which is an abuse of process of law.

4. Per contra, the learned Government Advocate (Crl. side) refuted the allegations.

5. This Court gave its anxious consideration to the rival submissions.

6. On a reading of the chargesheet in the present case, it is alleged by the de-facto complainant that A1 has been subjected her to torture by making sexual harassment and A2 and A3 had joined him and threatened the de-facto complainant that if she does not concede to the wishes of A1, they will cause harm to her children. As regards the FIR, that has been registered on the complaint given by the de-facto complainant's husband in Crime No.507/2014 by Kenikarai Police Station, that prosecution is different from the prosecution in this case. Since there are prima facie materials in the chargesheet for full-fledged trial, the same cannot be quashed at the threshold.

7. In the result, this petition is devoid of merits. Accordingly, the same is dismissed. At this juncture, the learned counsel for the petitioners submitted that the presence of the 2nd respondent Nageswaran (A3) may be dispensed with on account of his age. Accepting the said submissions, A3/Nageswaran shall appear before the Judicial Magistrate, No.I, Ramanathapuram, 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 2nd petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel shall cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the accused



absconds, a fresh FIR can be registered against him under Section 229(A) of IPC and if the accused adopts any dilatory tactics, they can be remanded to judicial custody. Consequently connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, No.I,
Ramanathapuram.

2. -do- Thro' The Chief Judicial Magistrate,
Ramanathapuram.

3.The Inspector of Police,
All Woman Police Station,
Ramanathapuram District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
+1 CC to Mr.C.Suresh Kannan, Advocate, SR No. 17201.

RR

PSM/JC/SAR4/04.04.2017/3P/6C

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