



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

WEB COPY

Crl.O.P.(MD)No.22882 of 2016

and

Crl.M.P.(MD)Nos.12601, 12007 and 12009 of 2016

Veeraragavan,
S/o. Sivaraman,
Indian Overseas Bank,
80 Feet Road, Anna Nagar,
Madurai, Madurai District.

: Petitioner

Vs.

State Rep. By,
The Inspector of Police,
All Women Police Station,
Madurai Town, Madurai District.
(In Crime No.1 of 2016)

: Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to direct the Learned III Additional District and Sessions Judge (PCR), Madurai to conduct a JOINT TRIAL of the case in S.C.No.8 of 2016 on its file, along with the case pending in P.R.C.No.13 of 2016 on the file of the Learned Judicial Magistrate, Additional Mahila Court, Madurai.

For Petitioner

: Mr.R.Murali

For Respondent

: Mr.K.Anbarasan,

Government Advocate (Crl.side)

Mr.S.RadhaKrishnan - R2 for Implead

O R D E R

On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.1 of 2014 dated 03.01.2014 and after completing the investigation, filed a final report and now the case is pending as SC.No.8 of 2016 before the III Additional District and Sessions Judge (PCR), Madurai for offences under section 294(b) of the Indian Penal Code, Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and Section 3(1)(x) of SC/ST Act as against the petitioner herein.



3. Ms. T. Vijaya, Inspector of Police, All Women Police Station, Madurai city, is present before this Court.

4. It is the allegation of one Vasantha Malliga that she was working as manager in Indian Overseas Bank and that her superior officer had called her by her caste name. Hence, the complaint. It is seen that Vasantha Malliga, after FIR was registered and investigation was completed has filed a private complaint before the learned Judicial Magistrate, Additional Mahila Court, Madurai, against the petitioner herein and two others namely one Indira Padmini and one M. Chandrasekaran, who are also officers of Indian Overseas Bank making similar allegations as found in her complaint in SC.No.8 of 2016. The said complaint has been taken on file in P.R.C.No.13 of 2016 and summons seem to have been issued to the petitioner and the co-accused. Therefore, the petitioner is before this court for a direction to transfer the P.R.C.No.13 of 2016 from the file of the Learned Judicial Magistrate, Additional Mahila Court, Madurai to the court of III Additional District and Sessions Judge (PCR), Madurai, to be tried along with SC.No.8 of 2016.

5. Learned Government Advocate (Criminal Side) on instructions submitted that, eight witnesses have been examined in S.C.No.8 of 2016 and the case is posted for further trial. In the considered opinion of this court, the relief as prayed for by the petitioner cannot be granted because this is not a case and a counter case. Only when there is a case and the counter case, a direction to the trial court to deal with both the cases one after the other can be issued. Hence, the private complaint filed by Vasantha Malliga is only in the stage of P.R.C. and it has not yet been committed to the court of Sessions.

6. Therefore, under Section 202 (2) of CRPC, the Learned Judicial Magistrate, Additional Mahila Court, Madurai is required to call upon the complainants to produce their witnesses and examine them on oath. And after that, if the Learned Magistrate finds that the complainant has made out a case to be tried by sessions, he will commit the case to the Court of Sessions under Section 208 of CRPC. If the magistrate is satisfied that the complainant has not made out the case, he need not have to commit the case to the Court of Sessions and that he can dismiss the case.

7. Therefore, the prayer of the petitioner for transferring P.R.C.No. 13 of 2016 to the III Additional District and Sessions Judge (PCR), Madurai, cannot be granted. If there is a contradiction in the evidence of the de-facto complainant and the averments in the complaint in P.R.C.No.13 of 2016, it is open to the petitioner to file an application under Section 311 of CRPC, to recall the de-facto complainant and confront her with her complaint in P.R.C.No.13 of 2016.



8. With the above observations, this petition stands dismissed. Consequently connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)
/True copy/

Sub Assistant Registrar

To

1. The IIIrd Additional District and Sessions Judge (PCR),
Madurai.
2. The Judicial Magistrate, Additional Mahila Court, Madurai.
3. The Inspector of Police,
All Women Police Station,
Madurai Town, Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Learned Judicial Magistrate,
Additional Mahila Court,
Madurai.

+1 CC to M/s.R.MURALI, Advocate, SR No. 14619/17.

+1 CC to M/s.S.RADHAKRISHNAN, Advocate, SR No. 14770

MR/RR

PSM/SKN/SAR1/05.06.2017/3P/8C

Order made in
CrI.O.P. (MD) No. 22882 of 2016
14.03.2017