



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 08.06.2017**

CORAM

**THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Crl.O.P. (MD) No.9176 of 2016 and****Crl.M.P. (MD) Nos.4589 & 4590 of 2016 & 2499 of 2017**

1. K.Natarajan
2. K.Ramasamy
3. N.Barani Dharan

... Petitioners/A1 to A3

-vs-

1. The Inspector of Police,  
Karur Town Police Station,  
Karur.  
(Crime No.175 of 2015)

2. The Sub-Inspector of Police,  
Karur Town Police Station,  
Karur.

... Respondents/Complainants

3. G.Athilakshmi

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to C.C.No.104 of 2016 on the file of the Judicial Magistrate No.I, Karur and to quash the same.

|                 |                           |
|-----------------|---------------------------|
| For Petitioners | : Mr.N.Shanmugaselvam     |
| For R1 & R2     | : Mr.K.Anbarasan          |
|                 | Govt. Advocate (Crl.Side) |
| For R3          | : Mr.S.Gokulraj           |

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**O R D E R**

This petition has been filed, seeking to quash the case in C.C.No.104 of 2016 on the file of the Judicial Magistrate No.I, Karur.

2. It is the case of Athilakshmi / Defacto Complainant that she and her husband joined the service of Premier Textile (in short the "Mills") as Data Entry Operator and Driver respectively and they were provided with a staff quarters by the Mills. Admittedly, they both were working from 14.10.2014 to 15.11.2014. It is the specific case of Athilakshmi that around 08:00pm on 15.11.2014, Natarajan (A1) came to her quarters and asked her to immediately vacate the premises and look out for some other job. Fearing him, Athilakshmi and her husband collected some of their apparels in two suitcases and left for Chennai. Thereafter, when she came back on 09.01.2015 to take back her educational



qualification certificates, she was informed by the accused that they had removed all the belongings in the house and the certificates are not with them.

3. Athilakshmi ran from pillar to post giving complaints to various authorities and ultimately, the Police registered a case in Crime No.175 of 2015 on 26.03.2015 under Sections 294(b) and 379(NP) IPC against Natarajan (A1). Challenging the FIR in Crime No.175 of 2015, Natarajan filed Crl.O.P.(MD) No.12987 of 2015 for quashing the same, in which this Court by order dated 14.07.2015 had directed that the Police may proceed with the investigation, but shall not file final report.

4. Ignoring this order, it appears that Saravanan, Sub-Inspector of Police filed a charge sheet against Natarajan and two others before learned Judicial Magistrate No.1, Karur for offences under Sections 294(b), 379 IPC @ 448, 421, 424 and 294(b) IPC and the same has been taken on file as C.C.No.104 of 2016.

5. Natarajan has filed a contempt petition in Cont.P.(MD) No.801 of 2016 against Saravanan, Sub-Inspector of Police stating that he had violated the order dated 14.07.2015 passed by this Court in Crl.O.P.(MD) No.12987 of 2015. During the pendency of these proceedings, Saravanan, Sub-Inspector of Police got into a criminal case of kidnapping and was arrested by the Police and remanded to custody. Thereafter, this Court showed indulgence to him and closed the contempt petition as well as Crl.O.P.(MD) 12987 of 2015. Now, the accused are before this Court with the above prayer.

6. Heard the learned counsel for the petitioners, learned Government Advocate (Crl.Side) appearing for the State and the learned counsel for the 3rd respondent/defacto complainant.

7. Learned counsel for the petitioners submitted that even according to Athilakshmi, she had taken away her goods in two suitcase on 15.11.2014 and therefore, her contention that the degree certificates are still with the accused cannot be countenanced. He also submitted that the Investigating Officer has recorded further statement from Athilakshmi, in which certain improvements have been made vis-a-vis FIR in order to bolster the prosecution case.

8. Per contra, learned counsel for Athilakshmi submitted that Athilakshmi has been consistently maintaining that her educational certificates are with the accused and when she questioned them, they even told her that the certificates have been destroyed and therefore, he contended that when there are prima facie materials in the charge sheet, the same cannot be quashed.



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

10. On one hand, it is asserted by Athilakshmi that her educational certificates are with the accused, which is strongly refuted by the accused. In a case of this nature, this Court cannot decide disputed question of facts in a petition under Section 482 Cr.P.C. It is for Athilakshmi and her witnesses to get into the witness box and establish the case and they can be subjected to cross examination by the accused.

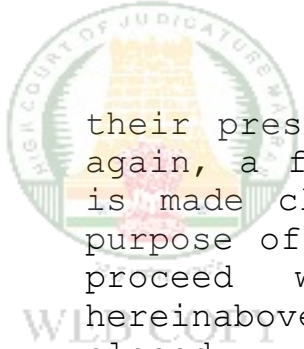
11. As regards the contention of the learned counsel for the accused that the final report has been filed, when there was a specific order by this Court not to file the same, the same is bad in law. In the considered opinion of this Court, the act of the Investigating Officer in filing the final report against the order passed by this Court may give room to initiation of contempt proceedings against him. In fact, contempt proceedings were initiated against Saravanan / Contemnor, Sub-Inspector of Police and since he was arrested pursuant to his involvement in some other criminal case, the same was closed.

12. When sufficient materials have been collected by the Investigating Officer during investigation and filed, the same will not stand vitiated, just because the Investigating Officer had violated the order of the Court and had filed the final report. For the sin of the Investigating Officer, the defacto complainant cannot be punished.

13. In the result, this petition is devoid of merits and accordingly, the same is dismissed.

14. At this juncture, learned counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.

15. It is seen that the 1st petitioner is aged about 70 years and the 2nd petitioner is aged about 62 years. Taking into consideration the age of the petitioners 1 & 2, this Court directs the petitioners 1 & 2/A1 & A2 to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioners 1 & 2 file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses in their absence without adopting dilatory tactics, the Services.Ecours.Gov.in/tcservices/ liberally consider and entertain the same in respect of the petitioners 1 & 2 alone. If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist upon



their presence and in the event of any of the accused absconding again, a fresh FIR can be registered under Section 229-A IPC. It is made clear that whatever is observed above is only for the purpose of deciding this petition alone and the Trial Court shall proceed with the trial uninfluenced by anything stated hereinabove. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To:

1. Judicial Magistrate No.I,  
Karur.
2. The Inspector of Police,  
Karur Town Police Station,  
Karur.
3. The Sub-Inspector of Police,  
Karur Town Police Station,  
Karur.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.N.SHANMUGA SELVAM, Advocate, SR No. 59459

+1 CC to M/s.S.GOKULRAJ, Advocate, SR No. 59337

AR

PSM/SV-MMS/SAR1/15.06.2017/4P/7C

**Cr1.O.P.(MD) No.9176 of 2016**  
**08.06.2017**