

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM:

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

Crl.O.P. No.20836 of 2018 & Crl.M.P. No.11267 of 2018

Viswanathan

Petitioner

vs.

- 1 The State
represented by
the Inspector of Police
B-3, Kanchi Taluk Police Station
Kanchipuram District
(Cr. No.525 of 2018)

- 2 Savitha Devi

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the FIR in Cr. No.525 of 2018 on the file of B-3, Kanchi Taluk Police Station, Kanchipuram District against the petitioner and quash the same.

For petitioner Mr. D. Magesh

For R1

Mrs. M. Prabhavathi
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been preferred seeking to call for the records in FIR in Cr. No.525 of 2018 on the file of B-3, Kanchi Taluk Police Station, Kanchipuram District against the petitioner and quash the same.

2 On the complaint lodged by Savitha Devi, the second respondent herein, the first respondent police has registered a case in Cr. No.525 of 2018 on 16.07.2018 under Sections 109 and 506(I) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002, against two named accused and five unnamed others, for quashing which, Viswanathan (A1) is before this Court.

3 Heard the learned counsel for the petitioner/A1 and the learned Additional Public Prosecutor appearing for the first respondent State.

4 It is the case of the de facto complainant that she is the aunt of one Shakthi, W/o Murali (A2); on account of matrimonial discord, Shakthi and her minor sons had initiated

proceedings under the Protection of Women from Domestic Violence Act against Murali and his father seeking certain reliefs, one of which, is that she should not be forcibly evicted from her matrimonial home; while that being the position, on 16.07.2018, when Shakthi had gone out to fetch her child from school, five persons entered the house and forcibly removed Shakthi's belongings and her second child who was sleeping; they also pushed and assaulted the de facto complainant; hence, the complaint.

5 The learned counsel for the petitioner/A1 submitted that Shakthi was not at all living in the said house and that the said house was let out on rent to another person who was in occupation of it.

6 Per contra, the learned Additional Public Prosecutor appearing for the first respondent - State refuted the contentions put forth by the learned counsel for the petitioner/A1.

7 In the opinion of this Court, disputed questions of fact cannot be gone into in a petition under Section 482 Cr.P.C. When there are prima facie materials disclosing commission of a cognizable offence, the FIR cannot be quashed in the light of the law laid down by the Supreme Court in State of Haryana v. Bhajan Lal & Others [AIR 1992 SC 604]. However, this Court directs the Inspector of Police, B-3, Kanchi Taluk Police Station, Kanchipuram District, to conduct a thorough investigation in Cr. No.525 of 2018 and if it is found that the allegations are false, it is needless to state that further proceedings against the petitioner should be dropped.

With the above observation and direction, this Criminal Original Petition stands disposed of. Connected CrI.M.P. is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
B-3, Kanchi Taluk Police Station
Kanchipuram District

2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.D.MAGESH, Advocate SR.No. 59258

CrI.O.P. No.20836 of 2018

ASK(11/09/2018)