

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.12670 of 2018

and Crl.M.P.Nos.6832 and 6833 of 2018

Ragupathy

.. Petitioner

Vs

1.State By
Inspector of Police
Villupuram West Police Station
Villupuram District.

2.Abirami

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records related to the case in C.C.No.344 of 2017 on the file of the learned Judicial Magistrate No.I, Villupuram in Cr.No.158 of 2017 on the file of the 1st respondent police and quash the same as against the petitioner/accused.

For Petitioner : Mr.S.Kasirajan
For R1 : Mrs.Kritika Kamal, P.
Government Advocate [Crl.Side]

O R D E R

This petition has been filed to call for the records related to the case in C.C.No.344 of 2017 on the file of the learned Judicial Magistrate No.I, Villupuram in Cr.No.158 of 2017 on the file of the 1st respondent police and quash the same as against the petitioner/accused.

2. On the complaint lodged by Abirami, the first respondent police registered a case in Cr.No.158 of 2017 on 10.03.2017 under Sections 294(b), 323, 354, 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002, against Ragupathy. During the course of investigation, an alteration report was filed and the offences were altered to Sections 294(b), 506(i), 352 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002

and two persons who were implicated in the complaint were deleted. After completing the investigation, the police have filed a final report in C.C.No.344 of 2017 before the Judicial Magistrate No.I, Villupuram, challenging which Ragupathy is before this Court.

3. Heard Mr.S.Kasirajan, learned counsel for the accused and Mrs.Kritika Kamal, P., learned Government Advocate [Crl.Side] for the State.

4. Learned counsel for the accused submitted that in the complaint given by Abirami, she had stated that Ragupathy and two persons assaulted her on 01.03.2017, whereas, in the statement recorded by the police on 12.03.2017, she has stated that two persons had accompanied Ragupathy. Therefore, the learned counsel contended that the entire prosecution is an abuse of process of law. He further contended that Ragupathy is a student of A.R.Engineering College doing his final year B.E. in Computer Science and Engineering and that on 01.03.2017, he was attending classes. In support of this plea, the learned counsel submitted a Certificate dated 31.01.2018 purportedly issued by the said College certifying that he attended classes on 01.03.2017.

5. Per contra, learned Government Advocate [Crl.Side] submitted that Ragupathy filed an application for discharge under Section 239 Cr.P.C., which has been dismissed by the trial Court on 13.03.2018 holding that there are prima facie materials for framing charges against the petitioner.

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

7. It is true that Abirami in her complaint to the police had stated that on 01.03.2017 Ragupathy and two others had assaulted her, however, in the further statement that was recorded on 12.03.2017, she has changed her earlier version and had stated that only Ragupathy attacked her. However, on a reading of the 161(3) Cr.P.C. statements of Bharathi and Ananda Kannan, who were eye witnesses to the incident, it is seen that they have only implicated Ragupathy and have not stated that Ragupathy was accompanied by two persons.

8. As regards the plea of alibi, which is relevant under Section 11 of the Evidence Act, is a fact which has to be proved like any other fact during the course of trial. From the statements of the witnesses recorded by the police, this Court is of the view that there are prima facie materials to frame charges against the petitioner.

9. Since disputed questions of fact cannot be gone into in a quash application under Section 482 Cr.P.C., this petition is dismissed with liberty to the petitioner to raise all the points before the trial Court after the charges are framed. Whatever is stated above, is only for deciding this quash application and the trial Court shall proceed with the trial without in any manner being influenced by what is stated above. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order, if there is no other legal impediment. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
Villupuram West Police Station
Villupuram District.

2.The Judicial Magistrate No.I,
Villupuram.

3.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.12670 of 2018

TR(17/07/2018)

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