

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 05.07.2018  
CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH  
Crl.O.P. No.17248 of 2018 & Crl.M.P. Nos.8906 & 8907 of 2018

Pazhanimuththu

...Petitioner

vs.

1 The Inspector of Police  
Chinnasalam Police Station  
Villupuram District  
(Cr. No.388 of 2017)

2 Jayakodi

...Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records of the proceedings in C.C. No.437 of 2017 on the file of the Judicial Magistrate No.II, Kallakurichi and quash the same.

For petitioner :Mr. N. Ranjithkumar  
For R1 :Mrs.Kritika Kamal P.  
Government Advocate (Crl. Side)

ORDER

On the complaint lodged by Jayakodi, the second respondent herein, the first respondent police registered a case in Cr. No.388 of 2017 on 19.06.2017 and after completing the investigation, have filed a charge sheet in C.C. No.437 of 2017 before the Judicial Magistrate No.II, Kallakurichi for the offences under Sections 294(b), 323 and 506(1) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, against Ramachandran (A1) and Palanimuthu (A2), for quashing which, Palanimuthu (A2) is before this Court.

2.Heard the learned counsel for the petitioner/second accused who submitted that even in the charge sheet, the name of the petitioner/second accused has been shown as Duraiswamy, which only shows that the petitioner/second accused has been falsely implicated.

3.Per contra, the learned Government Advocate (Crl. Side) refuted the contention put forth by the learned counsel for the petitioner/second accused.

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

5. At the first blush, the arguments advanced by the learned counsel for the petitioner/second accused did sound convincing, inasmuch as, in the charge sheet, the name of the second accused has been shown as Duraiswamy, S/o Ayyakannu, whereas, summons have been issued to Palanimuthu (A2). However, on a close reading of the charge sheet, first information report and the statements of witnesses, it is seen that Ramachandran (A1) is none other than the son of Jayakodi (de facto complainant). The petitioner/second accused is not a stranger, but, the father-in-law of Ramachandran (A1). Jayakodi, in her complaint, has clearly stated that she was assaulted by her son Ramachandran (A1) and his father-in-law. This is not a case of mistaken identity. Just because the Investigating Officer had erroneously given the name of the second accused as Duraisamy, S/o Ayyakannu, the prosecution cannot be quashed, inasmuch as Duraiswamy, is the father of Ramachandran (A1) and husband of Jayakodi. Obviously, Jayakodi could not have implicated her deceased husband Duraiswamy in the offence.

6. Under such circumstances, this Court does not find any infirmity in the prosecution case warranting interference. Hence, this Criminal Original Petition is dismissed with a direction to the Trial Court to proceed with the trial in C.C. No.437 of 2017 and complete the same expeditiously. Crl.M.Ps. are closed.

7. The learned Government Advocate (Crl. Side) submitted that since Ramachandran (A1) is in abscondence, the police have not been able to serve summons on him.

The first respondent police is directed to secure Ramachandran (A1) and produce him before the Trial Court so that the trial proceeds further.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

TO

1. The Judicial Magistrate, NO-II, Kallakurichi.

2. The Inspector of Police

Chinnasalam Police Station, Villupuram District

3. The Public Prosecutor, High Court of Madras

Chennai-600 104

Crl.O.P. No.17248 of 2018

BM 17/07/2018.