

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.28052 of 2018
and Cr1.M.P.Nos.16286 & 16288 of 2018

D.SenthilKumar

... Petitioner

Versus

1.State by: The Inspector of Police,
All Women's Police Station,
Kancheepuram.
(Crime No.4 of 2017)

2.A.Gandhi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.5 of 2018, on the file of the Judicial Magistrate No.II, Kancheepuram and quash the same.

For Petitioner : Mr.R.Thanjan

For 1st Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No.5 of 2018, pending on the file of the Judicial Magistrate Court No.II, Kancheepuram.

2.The allegations made in the final report is that the defacto-complainant is a widow and she has a son aged about eight years. The petitioner be friended the 2nd respondent and there was a relationship between the parties. Thereafter, the petitioner and the 2nd respondent started having sexual intercourse on a regular basis. It is the further case of the defacto-complainant that she conceded for the sexual intercourse only on the promise made by the petitioner that he will marry her. Subsequently, the petitioner refused to marry the defacto-complainant and therefore, the complaint was given to the respondent Police and an F.I.R was registered for an offence under Section 417 of I.P.C. After the completion of the

investigation, the final report was filed before the Court below and the Court below has taken cognizance of the final report for an offence under Section 417 of I.P.C.

3.The learned counsel for the petitioner would submit that there was no such relationship between the petitioner and the 2nd respondent and the 2nd respondent was merely a friend of the petitioner and they were working in the same organization. The 2nd respondent has given a false complaint, only to stop the marriage of the petitioner. The learned counsel would also submit that based on the allegations made in the final report, no offence has been made out under Section 417 of I.P.C.

4.The issues that have been raised by the learned counsel for the petitioner are factual in nature and this Court is not in a position to appreciate these facts, since, it falls within the realm of appreciation of evidence and it is only the Court below which has to consider the same in the course of proceedings on its own merits and in accordance with law. This Court does not want to interfere with the proceedings at this stage and it is left open to the petitioner to raise all the contentions before the Court below in the course of trial.

5.In the result this Criminal Original Petition stands dismissed by giving liberty to the petitioner to raise all the issues before the Court below and consequently, the connection Miscellaneous Petitions are closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
All Women's Police Station,
Kancheepuram.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.28052 of 2018

CSL/17.12.2018