

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1462 of 2018

Bhuvaneswari

...Petitioner

Vs.

State: rep. by its
The Station House Officer,
Thirunallar Police Station,
Karaikal.
(Crime No.28/2012)

...Respondent

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order dated 22.03.2018 passed in R.C.S.No.6 of 2015 in Crime No.28 of 2012 (Thirunallar Police Station, Karaikal) of the learned Judicial Magistrate No.II, Karaikal.

For Petitioner : Mr.C.Johnson

For Respondent : Mr.Balamurugan
Addl. Public Prosecutor (Pondy)

ORDER

The present revision has been filed against the order passed by the learned Judicial magistrate II, Karaikal in R.C.S.No.6 of 2015 in Crime No.28 of 2012. The defacto complainant wants to proceed with her complaint, but, the complaint filed by the defacto complainant was not proceeded by the learned Magistrate, hence the present revision case.

2 According to the learned counsel for the petitioner, the accused has been sexually harassing the petitioner/defacto complainant and was using unparliamentary words and attempted to assault her and also behaved with an intention to outrage her modesty and threatened to kill her and her husband by employing henchmen.

3 On the basis of the complaint preferred by the defacto complainant, a case was registered and investigated by the

police and a report was filed stating that there was no substance and truth in the complaint filed by the defacto complainant. Several witnesses were examined, who were present in the chamber of the Principal on the day when the incident had occurred on 19.04.2010 and none of the witnesses has said anything about the incident said to have been happened. The learned Judicial Magistrate adverted to the materials placed on record and the evidence of several witnesses including eye witness Dr.Zgyaraj, who was present in the chamber of the Principal on the crucial date and time of occurrence. The witnesses, who were in the vicinity of the chamber of the Principal, had not spoken about any such incident said to have been taken place. The learned Judicial magistrate after adverting to the report filed by the police, has rejected the petition, not to proceed with the complaint. The said order passed by the learned Magistrate dated 22.03.2018 is put to challenge in the present revision case.

4 The learned counsel for the petitioner would submit that the petitioner/defacto complainant has been sexually harassed by the Principal of the College, against whom, complaints were filed and he was transferred to his parent department, but, however, again by his influence he was transferred to the College and started harassing her again and again. Therefore, the revision petitioner was constrained to file another complaint, but unfortunately, without proper verification and investigation into the complaint, the police has filed a final report stating that there was no substance in the complaint. Unfortunately, the learned Judicial Magistrate has accepted the case without ordering re-investigation into the entire complaint.

5 This Court considered the rival submissions made on behalf of petitioner and also perused the order passed by the learned Judicial Magistrate.

6 From the order passed by the learned Judicial Magistrate, it is very clear that none of the witnesses, who were present at the time when the incident said to have been occurred, had spoken about any such incident having taken place as claimed by the petitioner herein. In fact, the eye witness Dr.Zgyaraj, who was external examiner, was present inside the chamber of the Principal on the date and time of occurrence, but, he has not spoken anything about such occurrence having taken place. All other witnesses, who were examined had uniformly said that there is no such incident. Therefore the learned Judicial Magistrate has rightly held that the complaint need not be proceeded further. In fact the learned Judicial Magistrate has given detailed reasons as under.

"According to complainant the eye witness Dr.Zgyaraj was inside the chamber and the witnesses

namely visalatch, Muthuveni, Rukumani, Aaramudhan, Udayakumaran, Swamynathan, Lakshminarayanan were present outside the chamber of the Principal. The statement of the vital witness Zgyaraj who has witnessed the incident as an eye witness at the chamber of the Principal state that he was called for attending the university internal examination on 19.04.2010, he was waiting at the chamber of the Principal, while so at 8.50 A.M., the complainant Bhuvaneswari came to the Principal chamber and left without wishing him, immediately the said principal called her and questioned her why she did not have a basic courtesy to welcome the external examiner who had come for her subject exam. Apart from this as a chief superintendent of examination principal advised both of them to conduct the examination in a fair manner. In the midst of this, he noticed the entry of a male staff who entered the room for signing the attendance. There was no such incident happened in his vicinity like use of any unparliamentary words, attempt to assault as narrated by the complainant in her complaint. This witness had totally denied the version of the complainant.

The witnesses M.Aramudan, Swaminathan, Muthuveni, Visalakshi, Rukmani, Lakshminarayanan and Udayakumar stated they were standing outside the Principal chamber they did not witness the alleged offence.

From this evidence, this Court finds that sufficient ground is not there for proceeding further. No prima facie case against the accused was made out, statement of witnesses is trustworthy, the integrity of the Inspector of Police who laid the referred charge sheet was not doubted, fair enquiry has been conducted several witnesses have been examined, this Court satisfied with the report filed by the police."

7 This Court finds that the order dated 22.03.2018 passed by the learned Judicial Magistrate in R.C.S.No.6 of 2015 in Cr.No.28 of 2012 does not suffer from any infirmity and on the other hand finds the present revision petition sans merit and substance and hence the same is dismissed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Judicial Magistrate No.II, Karaikal.

2. Do Thro The Chief Judicial Magistrate, Pondicherry

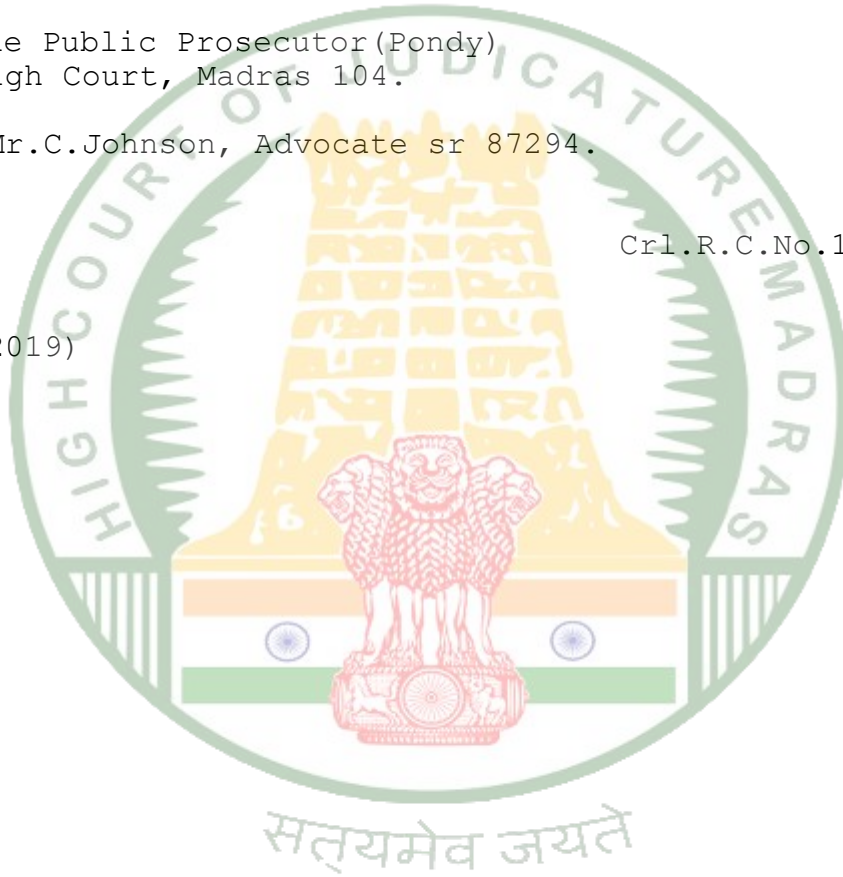
3. The Station House officer
Thirunallar Police Station
Karaikal.

4. The Public Prosecutor(Pondy)
High Court, Madras 104.

+1 CC to Mr.C.Johnson, Advocate sr 87294.

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SPD(CO)
SP(21/01/2019)



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