



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.1477 of 2016

1.Premkumar
2.Gunaeelan

... Petitioners

-vs-

1.S.Usha

...Respondent

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.221 of 2015 on the file of the learned Judicial Magistrate No.III, Nagercoil and quash the same.

For Petitioners : Mr.B.Brijesh Kishore

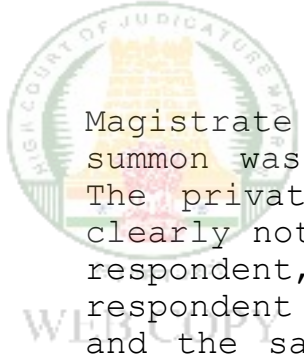
For Respondent : Mr.Subbiah
Senior counsel for Mr.G.Aravindan

ORDER

This petition has been filed seeking to quash the private complaint pending in C.C.No.221 of 2015 on the file of the learned Judicial Magistrate III, Nagercoil.

2.The learned counsel for the petitioners submitted that earlier a complaint was given to Anjugramam Police Station on 28.12.2014 and the same was registered in Crime No.568 of 2014 for offence under Sections 294(b), 506(i) IPC and under Section 4 of the Tamil Nadu Prevention of Women Harassment Act, 2002. After the investigation, the respondent police filed a closure report before the learned Judicial Magistrate III, Nagercoil, stating that the case is closed as 'Mistake of Fact' on 30.12.2014. Thereafter, RCS notice was served on the complainant and protest petition was filed in Crl.M.P.No.2833 of 2015. The learned Judicial Magistrate III, Nagercoil, in the aforesaid petition ordered for re-investigation of the case in Crime No.568 of 2014 on 22.05.2015. This order became a subject matter of a challenge before this Court in Crl.R.C.No.241 of 2015. This Court by order dated 14.07.2015 had set aside the direction given by the learned Judicial Magistrate and remanded the matter back to the Judicial Magistrate to consider the petition in accordance with law after giving opportunity to both the parties.

3.While so, the respondent seems to have filed a private complaint on the very same allegations before the learned Judicial



Magistrate III, Nagercoil and the same was taken cognizance and summon was also issued to the petitioners in C.C.No.221 of 2015. The private complaint that has been filed by the respondent is clearly not maintainable, since already a complaint was filed by the respondent, which resulted in a closure report filed by the respondent police and the respondent has filed a protest petition and the same is pending before the concerned Court, the same was remanded back by this Court by virtue of the order passed in Crl.R.C.No.241 of 2015. A second complaint on the very same set of allegations is not maintainable in law.

4. In view of the above, the private complaint filed by the respondent in C.C.No.221 of 2015 is hereby quashed. It is made clear that the respondent has to workout her remedy in the protest petition which is pending before the learned Judicial Magistrate III, Nagercoil. The learned Magistrate is directed to decide the protest petition filed by the respondent in accordance with law after affording opportunity to all the parties.

5. The Criminal Original Petition is allowed with the above direction. In view of the pendency of the case for a long time, the Court below is directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

Sd/

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1. The Judicial Magistrate No.III, Nagercoil.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.B.Brijesh Kishore, Advocate, SR.No.87626

+1cc to Mr.G.ARAVINTHAN, Advocate, SR.No. 87811

CRL.O.P. (MD) No.1477 of 2016
28.09.2018

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