



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P(MD)No.4633 of 2013

and

M.P. (MD)Nos.1 and 2 of 2013

G.Seenivasan @ Seeni

... Petitioner/Accused No.2

Vs.

1.The State represented by
Sub Inspector of Police,
Kurumbur Police Station,
Tuticorin District.
(Crime No.64 of 2012)

...1st Respondent/Complainant

2.S.Jansi

... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the C.C.No.82 of 2013 pending on the file of the learned Judicial Magistrate, Srivaikundam and quash the same in so far as petitioner is concerned.

For Petitioner : Mr.D.Selvanayagam

For R-1 : Mr.A.Robinson
Government Advocate (Crl.side)

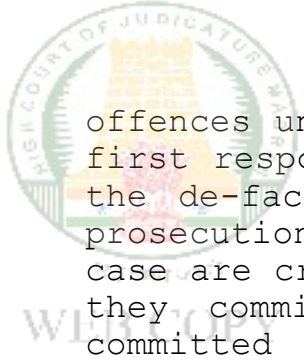
O R D E R

This Criminal Original Petition has been filed by the petitioner under Section 482 Cr.P.C., to quash the proceedings relating to C.C.No.82 of 2013 on the file of the Judicial Magistrate Court, Srivaikundam.

2.In the Trial Court, the first respondent police laid the charge sheet against two persons, for the offences punishable under Sections 341, 294(b), 323 and 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, in which, the petitioner was arrayed as second accused.

<https://hcservices.ecourts.gov.in/hcservices/>

3.According to the case of the prosecution, the petitioner assaulted the de-facto complainant and thereby, committed the



offences under Section 323 IPC and in order to prove the same, the first respondent police cited one Dr.T.Kingston Xavier, who treated the de-facto complainant, as a witness. Further according to the prosecution, the petitioner herein and another one accused in this case are criminally intimidating the de-facto complainant, by which, they committed an offence under Section 506(ii) IPC and also committed an offence under Section 4 of Tamilnadu Prohibition of Women Harassment Act. So, for the said offences, to identify the involvement of the petitioner, examination of witnesses is very much necessary. In this case, as per the case of prosecution, the case is posted on 03.05.2018, for examination of the witnesses.

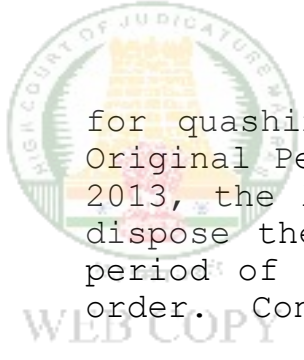
4.In the above circumstances, the learned counsel appearing for the petitioner submitted that only due to the previous enmity between the petitioner and the second respondent, the petitioner herein has been falsely implicated in this case. Except the said ground, the petitioner herein has not raised any other ground in support of his claim. In the circumstances, it is necessary to find out whether the petitioner and the second respondent are having previous enmity or not. The said aspect is purely a matter of evidence.

5.So, the factual position as to whether the petitioner is guilty of the charges or not has to be identified only at the end of trial. Therefore, facing trial alone is the relief to the petitioner to prove his innocence.

6.In this regard, it is relevant to consider the decision of the Hon'ble Supreme Court in Ajay Kumar Das Vs. State of Jharkhand and another reported in 2011 (12) SCC 319, wherein, the Apex Court has held as follows:

'15. allegations will have to be dealt with by the court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge-sheet had already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant.'

7.Applying the ratio laid down by our Hon'ble Apex Court in the above said judgment to the present case on hand, this Court comes to the conclusion that the petitioner is not having any valid ground



for quashing the case pending against him. Hence, this Criminal Original Petition is dismissed. However, as the case is of the year 2013, the learned Judicial Magistrate, Srivaikundam, is directed to dispose the same as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Srivaikundam.
- 2.The Sub Inspector of Police,
Kurumbur Police Station,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.D.SELVANAYAGAM, Advocate SR.No.45736.

CRL.O.P (MD) No.4633 of 2013
01.02.2018

ls

SDS/KKR/SAR 3/22.02.2018/3P/5C