

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl.O.P.No.3430 of 2011
and M.P.Nos.1, 2 of 2011

Sudha

.. Petitioner/Accused 2

Vs.

1.The State by Inspector of Police,
Vishnu Kanchi Police Station,
Kancheepuram.

2.Nirmala Devi,
Age & Father's name not known,
Shree Krishna Middle School,
Small Kancheepuram.

.. Respondents/Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records in C.C.No.4 of 2011 on the file of the Judicial Magistrate No.1, Kancheepuram and quash the proceedings therein in so far as this petitioner is concerned.

For Petitioners : Mr.D.Ravichander

For R1 : Ms.S.Thankira,
Additional Public Prosecutor(GA)

For R2 : Mr.S.N.Ravichandran
for Mr.V.Madhavan

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O R D E R

The petitioner is 2nd accused in C.C.No.4 of 2011 on the file of the Judicial Magistrate No.1, Kancheepuram. The petitioner is seeking to quash the said C.C in so far as it relates to her.

2.The learned counsel appearing for the petitioner contended that in the complaint given by the de-facto complainants who are the Teachers working in the School in which

the petitioner is Headmistress, no allegation is made against the petitioner, except stating that she was abetting the 1st accused in committing the offenses alleged in the complaint. The learned counsel appearing for the petitioner referred to the complaint dated 04.01.2010 as well as the charge sheet dated 01.04.2010. The learned counsel appearing for the petitioner contended that in the complaint and charge sheet, it has been mentioned that the 1st accused had sexually harassed the complainants and abused them in filthy language and threatened them with dire consequences if they revealed about the alleged harassment. According to the de-facto complainants, the 1st accused committed offenses from the year 1990 to 31.12.2009 and the petitioner abetted the 1st accused to commit the alleged offenses. Referring to the period of occurrences, the learned counsel appearing for the petitioner contended that in the year 1990, the petitioner was aged 12 years and she was not connected with the Management of the School till 2004. Even if allegations made in the complaint and charge sheets are taken to be true, the offenses under Sections 294 (b), 354, 506 (i) and 109 I.P.C are not made out against the petitioner. Except adding a sentence that the petitioner abetted the 1st accused to commit the alleged offenses, no particular was mentioned as to how the petitioner committed offenses or abetted the 1st accused to commit the alleged offenses. It is clear abuse of process of law and petitioner is included in the complaint and charge sheet only to pressurize School Management to accede to demand of the de-facto complainants and prayed to quash C.C.No.4 of 2011 on the file of the Judicial Magistrate No.1, Kancheepuram.

2(i). The learned counsel appearing for the 2nd respondent contended that the petitioner is daughter of the 1st accused. She is working as Headmistress in the School in which the 1st accused is Correspondent. The petitioner is also responsible for the alleged sexual harassment and threatening of the de-facto complainants by A1. Complaint and charge sheet prima-facie shows that the petitioner was responsible for the offenses mentioned therein and prayed for dismissal of the Criminal Original Petition.

3. Heard the learned counsel appearing for the petitioner, learned Additional Public Prosecutor appearing for the 1st respondent as well as the learned counsel appearing for the 2nd respondent and perused the materials available on record.

4. A complaint or charge sheet can be quashed only when no offenses is made out on the face of the complaint and charge sheet. It is well settled that when the averments in the complaint even if taken to be true, does not make out offenses, the Court can quash the complaint or charge sheet. In the present case all the allegations are made only against the 1st accused and as rightly pointed out by the learned counsel

appearing for the petitioner that the petitioner was aged 12 years in the year 1990 when the alleged sexual harassment started and at that time, the petitioner had no control over the Management and she could not have abetted the 1st accused to commit the offenses has considerable force. In the complaint as well as the charge sheet, nothing has been mentioned about the role played by the petitioner in abetting the 1st accused to commit the offenses, except vague allegation that the petitioner has abetted the 1st accused in committing the offenses. The complaint and charge sheet has not made out any offenses alleged to have been committed by the petitioner. Hence, the charge sheet in C.C.No.4 of 2011 on the file of the Judicial Magistrate No.1, Kancheepuram is liable to be quashed in so far as the petitioner is concerned and is hereby quashed.

5.In the result, the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate No.1,
Kancheepuram.
- 2.Do Thro The Chief Judicial Magistrate
Kancheepuram.
- 3.The State by Inspector of Police,
Vishnu Kanchi Police Station,
Kancheepuram.
- 4.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.D.Ravichander, Advocate SR.73153
+1cc to Mr.V.Madhavan, Advocate SR.73207

Cr1.O.P.No.3430 of 2011

KS(CO)
CB(18/10/2019)