

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.1603 of 2015
and
MP.No.1 of 2015

N.Vennila

...Petitioner

Versus

1.The State Rep.By its
The Inspector of Police,
S-10, Pallikaranai Police Station,
Pallikaranai,
Chennai 600 100.
Crime No.1655 of 2014.

... First Respondent /
Complainant

2.Mr. Ellagngovan

... Second Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to Call for the Records and Quash the FIR in Crime No.1655 of 2014 dated 20-09-2014 on the file of the first respondent police for offence under section 380 of IPC.

For Petitioner : Mr.R.Balachanderan

For R1 : Mr.E.Iyyapparaj,
Additional Government Pleader

सत्यमेव जयते
ORDER

1.This Criminal Original Petition has been filed by the Petitioner, who has been arrayed as Accused in Crime No.1655 of 2014 on the file of the Inspector of Police, Pallikaranai Police Station, Chennai, the First Respondent, seeking to quash the F.I.R. pending against her.

2.The Petitioner is the wife of the Second Respondent/Defacto Complainant, one Mr. R.Elangovan.

3. A case in Crime No.1655 of 2014 has been registered on the file of the First Respondent based on the complaint lodged by the second Respondent herein alleging that while the Second Respondent was in abroad, he was called by his wife on the ground that she was not well and the second respondent arrived India and while he was in home, he received a phone call from the first respondent police station that the petitioner lodged a complaint against him alleging that he had illicit intimacy with other woman and for that purpose he attended enquiry at the instance of the police. On 10.08.2014, the second respondent was attending enquiry in the police station, the petitioner has abruptly left the police station and went home and stolen his passport, three sovereigns of gold, cash of Rs.26,000/- and other important documents and also onward journey ticket and when the second respondent came and searched his belongings, he found missing of the above mentioned items and immediately he lodged a complaint before the first Respondent and subsequently, the case was registered against the petitioner. Now the petitioner has come forward with the present petition seeking to quash the same.
4. The learned counsel appearing for the petitioner would submit that the petitioner is none other than the wife of the second respondent/defacto complainant and there were matrimonial dispute between them and in order to frustrate the petitioner from proceeding with the matrimonial proceedings against the second respondent, he has lodged the complaint with baseless allegations and absolutely no ingredients under Section 380 have been made out to register the case against the petitioner. Hence the learned counsel seeks to quash the F.I.R.
5. It is not in dispute that the petitioner and the second respondent are wife and husband and out of their wedlock two children were also born. It appears that the petitioner filed HMOP.No.495 of 2015 before the Sub Court, Tambaram for divorce. After the case was registered against the petitioner, it appears that she moved petition for grant of Anticipatory Bail in CrI.OP.No.28885 of 2014 and this Court also granted the Anticipatory Bail with condition that the petitioner shall return the passport and some valuables to Defacto Complainant/Second respondent. Pursuant to the same, it appears that the petitioner has also complied with the said condition. Therefore, the second respondent has got the passport and other valuables for which he lodged the complaint against his wife.
6. I have given a careful consideration of the facts of the case which would reveal that after arrival to India from abroad the second respondent visited the house of the petitioner and kept

the bag in the house of the petitioner and thereafter matrimonial dispute arose since the petitioner lodged complaint against the second respondent and the bag was kept remained with the possession of the wife and in order to get the things, it appears that the second respondent has lodged the complaint. Therefore this Court is of the view that the petitioner has not been involved in the case and no ingredients under Section 380 of IPC have been made out to proceed against the petitioner. Hence, the FIR in Cr.NO.1655/2014 is liable to be quashed.

7. Accordingly this Criminal Original Petition is allowed and the FIR in Cr.NO.1655/2014 dated 20-09-2014 on the file of the first respondent police for offence under section 380 of IPC is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (JJ Act)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
S-10, Pallikaranai Police Station,
Pallikaranai,
Chennai 600 100.
2. The Public Prosecutor,
Madras High Court, Madras.

AKM/10.02.2020/3P- 3C /

Cr1.O.P.No.1603 of 2015
and
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