

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.29446 of 2013 and
M.P.No.1 to 13
&
M.P.No.2 & 3 of 2014

1. D.Balu @ Prabhakaran
2. Sudha

... Petitioners

Vs.

The State represented by
1. The Inspector of Police,
All Women Police Station,
Chidambaram,
Cuddalore District.
(Crime No.16 of 2013)

2. Shakeela

... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.262 of 2013 on the file of the learned District Munsif-cum-Judicial Magistrate, Portonova, Cuddalore District and to quash the same. (Amended as per order dated 28.03.2013 in M.P.No.1/13)

For Petitioner : Mr.G.K.R.Pandiyan

For Respondents : Mr.R.Raghavan,
Govt.Advocate (Crl.Side) for R1
Mr.S.Senthilnathan for R2

ORDER

This criminal original petition has been filed seeking to quash the proceedings in C.C.No.262 of 2013 on the file of the learned District Munsif-cum-Judicial Magistrate, Portonova, Cuddalore District.

2 Learned counsel appearing for the petitioners would submit that there is no prima facie allegations as against these petitioners and they were not available on the date of

allegations and in fact they were at Cuddalore. The first petitioner only took the defacto complainant to the Hospital and he extended the hospitality towards her, which is proved from the materials. Further, the Court below had referred the matter to Mediation at an earlier occasion. The learned counsel has placed his reliance on the decisions of the Hon'ble Supreme Court reported in (2018) 10 SCC 443 (Social Action Forum for Manav Adhikar and another vs. Union of Ministry of Law and Justice and another). The defacto complainant has made false allegations against the petitioners and therefore, the case in C.C.No.262 of 2013 is liable to be quashed.

3 The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that there is specific allegations against both the petitioners to proceed the case further and there is no reason to quash the calender case.

4 The learned counsel appearing for the second respondent would submit that the defacto complainant has made allegations against the petitioners in the complaint itself and the first respondent police has investigated in the matter and filed a charge sheet and the case was also taken on file. Whatever the defence available to the petitioners, they can establish before the trial Court and there is no ground to quash the case against the petitioners.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that the first petitioner is husband and second petitioner is his sister and the second respondent is wife of first petitioner. The second respondent/wife has lodged complaint against the petitioners, since they made cruelty. The first respondent police, after completing investigation, laid the charge sheet and the case was also taken on file in the above calender case, which is pending for trial. The citation referred to by the learned counsel appearing for the petitioners is not applicable to the present case on hand, since in that case already the parties have settled and therefore, the Supreme Court has directed the parties to approach the trial Court. It is submitted by the learned counsel appearing for the petitioners that this matter may be referred to Mediation. Since, the respondent/wife is residing at Chithambaram and the matrimonial case is pending at Chidambaram, this Court is not inclined to drag the respondent/wife all the ways from Chidambaram to Chennai.

7 On reading of the entire materials, this Court is of the view that it is not a fit case to invoke power under Section 482 of Cr.P.C for quashing the calender case. Therefore, this

criminal original petition is dismissed. Consequently connected miscellaneous petitions are closed.

8 However, since it is matrimonial dispute, the parties are at liberty to approach the Court below for settlement within one month from the date of receipt of a copy of this order and if the parties approaching for settlement, the Court below is directed to refer the matter for Mediation or the Magistrate himself can settle the matter and if no settlement is arrived then the Magistrate is directed to dispose of the case in accordance with law.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif-cum-Judicial Magistrate, Portonova, Cuddalore District.
2. The Inspector of Police, All Women Police Station, Chidambaram, Cuddalore District.

+1cc to Mr.G.K.R.Pandiyar, Advocate, S.R.No.95945

+1cc to Mr.S.Senthilnathan, Advocate, S.R.No.95664

CrI.O.P.No.29446 of 2013 and
M.P.No.1 to 13 &
M.P.Nos.2 & 3 of 2014

RSK(CO)
CS/20/01/2020

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