

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Reserved on : 28.08.2018

Pronounced on : 03.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.OP.No.32331 of 2013

and

M.P.No.1 of 2013

Rathina Subramanian ...Petitioner/Accused-7

versus

1.State of Tamilnadu

Rep. By The Inspector of Police,  
W-29, All Women Police Station,  
Avadi, Chennai - 54.

2.M.J.Nithyanandhi

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to quash the charge sheet in C.C.No.200 of 2013, pending trial on the file of the learned Judicial Magistrate No.1, Poonamallee.

For Petitioner :Mr.S.Karthikeyan

For Respondents:Mr.T.Shanmuga Rajeswaran  
Government Advocate (Crl.Side) for R1  
Mr.K.Selvarangan for R2.

ORDER

This petition has been filed by the accused No.7 to quash the proceedings against him in C.C.No.200 of 2013 on the file of the Judicial Magistrate No.1, Poonamallee.

2. Based on the complaint given by the second respondent, the first respondent has registered a case in Cr.No.2 of 2013 and investigated the matter and filed a charge sheet alleging that the accused Nos.1 to 6 harassed the second respondent herein by demanding dowry and also scolded her with obscene words. It is further stated that the accused Nos.1 to 6 had engaged the accused No.7 (petitioner herein) as detective agent. He had gone to the residence of the defacto complainant (second respondent herein) and to her office premises and in the guise

of making enquiries, he has spread false derogative information about the second respondent and hence, the Accused Nos.1 to 6 are liable to be punished under Sections 498(A), 294 (b) r/w. 109 IPC and Section 4 of Dowry Prohibition Act & Sec.4 of TNPWH Act and Accused No.7 (petitioner herein) is liable to be punished under Section 4 of TNPWH Act.

3. Based on the aforesaid chargesheet, the learned Judicial Magistrate No.I, Poonamallee, has taken the case on file in C.C.No.200 of 2013 and issued summons to the accused persons. The petitioner herein, who has been arrayed as Accused No.7, after receipt of the summons, has filed the present petition under Section 482 of Cr.PC to quash the proceedings against him in the C.C.No.200 on the file of the Judicial Magistrate No.I, Poonamallee.

4. The learned counsel for the petitioner has submitted that the entire allegations in the charge sheet are only against the Accused Nos.1 to 6 and in the dispute between the defacto complainant and her husband and their in-laws, the petitioner herein has been unnecessarily roped. He further submitted that even as per the statement of the witness viz., Dinesh Jacob Durairaj, the petitioner had just asked about the character of the mother of the defacto complainant and that the defacto complainant had left her husband and gone back to her house. These enquiries made by the petitioner herein even if it is taken at face value as true does not make out any offence under Section 4 of Tamilnadu Prohibition of Women Harassment Act (TNPWH Act). He further submitted that the alleged act of the petitioner will not attract the definition of the harassment as defined under Section 2 of the said Act. He further submitted that the petitioner is a partner in a detective agency in the name and style of M/s.Maruthi Detective and Security Bureau having office at East Tambaram, Chennai - 59. He further submitted that proper advertisements were placed in Just Dial and Advertising Company and having referred by them, the accused Nos.4 and 6 had approached the petitioner for utilizing his services and hence, the petitioner had conducted the job as entrusted by the Accused Nos.4 and 6 and hence, he just done his professional duty without any malafide intention.

5. He further submitted that the petitioner is the retired Inspector of Police and he started a partnership firm by name M/s.Maruthi Detective and Security Bureau and the same has been duly registered before the Registrar of Firms, Chennai South. He further submitted that the Additional Director General of Police had issued a license on 03.10.2012 to run the business of Private Security Agency and only in pursuance of the said license, the petitioner herein has conducted enquiry and submitted a report stating that the conduct and character of

defacto complainant are good and as such, it cannot be said that he has committed any offence under Section 4 of TNPWH Act and therefore, he prayed to quash the proceedings against the petitioner herein in C.C.No.200 of 2013 on the file of the Judicial Magistrate No.1, Poonamallee.

6. Per contra, the learned Government Advocate (Crl.Side), who is appearing for the first respondent has submitted that the Accused Nos.4 and 6 have engaged the petitioner herein to verify about the conduct and character of the second respondent and accordingly, the petitioner herein has followed the second respondent and conducted enquiry with several persons with regard to the conduct and character of the second respondent and the said act would amount to harassment within the definition of Section 2 of the said Act. He further submitted that the Additional Director General of Police, Welfare, Chennai - 4, has issued license to the Firm M/s.Maruthi Detective and Security Bureau only to engage in the business of private security agency and not for conducting any investigation and therefore, the petitioner cannot conduct any investigation by using the said license. He further submitted that since the petitioner himself has admitted that he has conducted enquiry with regard to conduct and character of the second respondent, a prima facie case is made out against him to proceed under Section 4 of TNPWH Act and therefore, he prayed to dismiss the above petition.

7. Learned counsel for the second respondent has adopted the arguments advanced by the learned Government Advocate (Crl.Side).

8. According to the petitioner, he is a retired Police Inspector and he started a partnership firm by name M/s.Maruthi Detective and Security Bureau and registered the same before the Registrar of Firms, Chennai South. He has produced a xerox copy of the "Acknowledgment of Registration of Firm. A perusal of the said document would show that the Firm was registered in the name of M/s.Maruthi Detective and Security Bureau before the Registrar of Firms, Chennai - South on 08.03.2012. He also produced a xerox copy of the license issued by the Additional Director General of Police, welfare, Chennai - 4 dated 03.10.2012. In the said license, it is stated that the license has been issued to the said M/s.Maruthi Detective and Security Bureau to engage in the business of private security agency in five districts viz., Chennai, Kancheepuram, Thiruvallur, Madurai and Trichy. So, it is clear that the Additional Director General of Police Welfare, Chennai - 4, has issued license to the said firm only to run the business of private security agency in the aforesaid five districts, but no license was given for conducting any investigation.

9. In respect of the investigation of the cases, certain procedures have been formulated under the Code of Criminal Procedure. As per Section 156 of Cr.P.C., the police can investigate only in respect of cognizable cases and that too, after registering the FIR. As per Section 155 of Cr.P.C., if any information is received by the Officer in-charge of police station in respect of the commission of non-cognizable offence, he has to get permission from the jurisdictional Magistrate for investigation. In this case, the petitioner herein after retiring from the service as Inspector of Police, has conducted investigation, but he is not able to show any provision of law which gives power to investigate the matter. The only document relied upon by him for conducting such investigation is the license issued by the Additional Director General of Police. As already pointed out that in the said license, it is specifically stated that the permission was granted only for running the business of private security agency and not for conducting any enquiry or investigation. The petitioner himself has admitted that he conducted enquiry with regard to the conduct and character of the defacto complainant and issued a report stating that the conduct and character of the second respondent are good. He has not stated that under what provision of law, he is entitled to issue conduct and character certificate. Following a person would amount to interference in his or her privacy. Therefore, this court is of the view that a prima facie case is made out against the petitioner herein to proceed. Hence, this court is not inclined to quash the proceedings against the petitioner herein. It is open to him to establish before the trial court that he has not acted with any mala fide intention.

10. In the result, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv

To

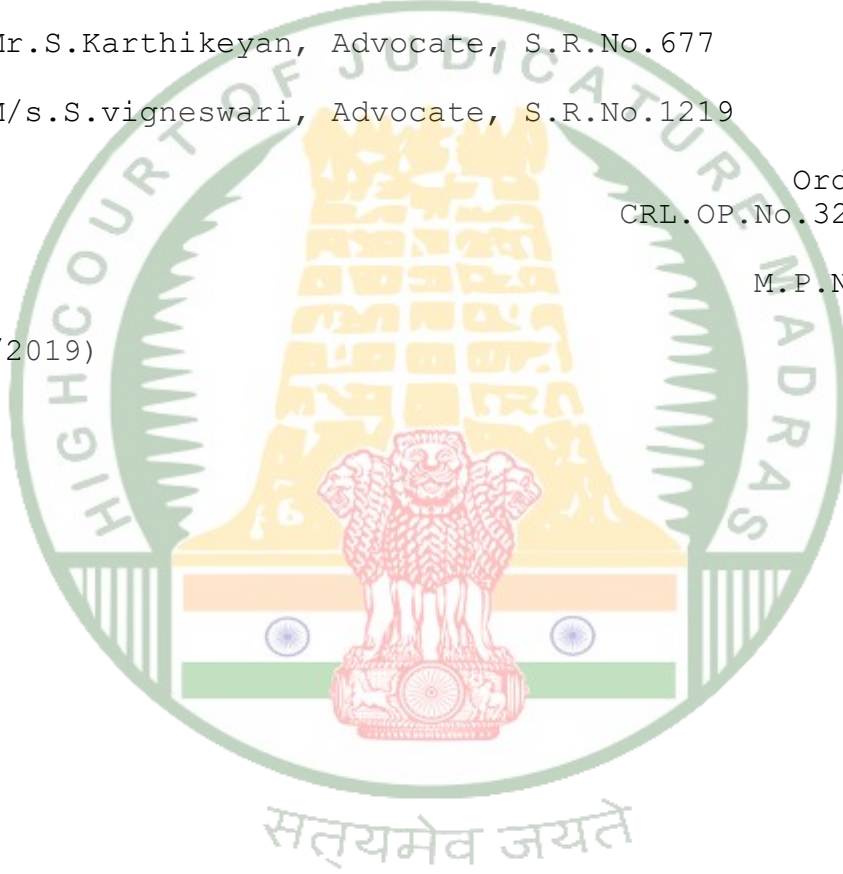
1. The Inspector of Police,  
W-29, All Women Police Station,  
Avadi, Chennai - 54.
2. The Public Prosecutor,  
High Court, Madras.
3. The Judicial Magistrate No.I,  
Poonamallee.

+1 cc to Mr.S.Karthikeyan, Advocate, S.R.No.677

+1 cc to M/s.S.vigneswari, Advocate, S.R.No.1219

Order made in  
CRL.OP.No.32331 of 2013  
and  
M.P.No.1 of 2013

PA (CO)  
SSM(25/01/2019)



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