

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.26656 of 2017

Pichaian

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai - 600 041.

2.Kalyani

... Respondents

Prayer: Criminal Original petition filed under Section 482 of the Criminal Procedure Code, to call for records in Crime No.2594 of 2017, pending investigation on the file of Inspector of Police, J-6, Thiruvanmiyur Police Station, Chennai and quash the same.

For Petitioner : Mr.K.M.Balaaaji

For Respondent 1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent 2 : Mr.S.Kumaradevan

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.2594 of 2017, pending on the file of the first respondent.

2. It is seen from the complaint that the second respondent was a widow and taking advantage of her loneliness, the petitioner is said to have approached her and thereafter, both of them married. It is the further case of the second respondent that the petitioner was demanding money from the second respondent daily for the purpose of consuming liquor. There was mis-understanding between the petitioner and the

second respondent and both of them had split in the year 2006. The present complaint has been given on 01.09.2017 by the second respondent against the petitioner for the incident that is said to have taken place between 2004 and 2006. In the complaint, the second respondent has also made several allegations against the petitioner with regard to various other cases that are pending against him before various Police Stations.

3. The learned counsel for the petitioner would submit that the allegations made in the complaint do not make out any offence against the petitioner. The learned counsel for the petitioner would further submit that for the incident took place between 2004 and 2006, the complaint was given in the year 2017 that itself would show that the entire complaint is actuated with male fide. The learned counsel therefore would submit that the FIR is an abuse of process of law and the same has to be quashed.

4. The learned counsel appearing for the second respondent would submit that this petitioner has cheated the second respondent and has taken money from her and has also abused her by using caste name. The learned counsel would further submit that the petitioner had cheated various other women and there are several cases pending against him. The learned counsel therefore submitted that the respondent police will have to proceed further with the investigation and they must be directed to file a final report.

5. This Court has carefully considered the submissions made on either side.

6. Admittedly, in this case, the petitioner and the second respondent were living together from the year 2004 to 2006. For certain incidents, which are said to have taken place during that period, a complaint came to be given on 01.09.2017. The respondent police also mechanically registered the FIR for an offence under Sections 294 (b), 417 and 506 (2) of Indian Penal Code and Section 3 (1) (X) of SC / ST (PREVENTION OF ATROCITIES) Act, 1989.

7. A reading of the complaint and the allegations made therein, do not make out any offence under Section 294 of Indian Penal Code and Section 3 (1) (X) of SC / ST (PREVENTION OF ATROCITIES) Act, 1989, since the alleged abuse by the petitioner was not done in public view and in a public place. That apart, the petitioner and the second respondent had lived together only for a period of two years from 2004 to 2006. The complaint itself came to be given after nearly 11 years. That itself shows that the entire complaint is actuated with male fide. The FIR registered by the respondent police is a clear abuse of

process of law and the same has to be interfered by this Court in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. The entire complaint given by the second respondent is clear abuse and the petitioner, who is aged about 68 years, has been made to face the criminal proceedings.

8. In the result the FIR in Crime No. 2594 of 2017, on the file of the first respondent police is hereby quashed and accordingly, this criminal original petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nmm/dss

To

1. The Inspector of Police,
J-6, Thiruvannamiyur Police Station,
Chennai - 600 041.

2. The Public Prosecutor,
Madras High Court, Chennai.

+1 cc to Mr.K.M.Balaji, Advocate Sr.No.1238
+1 cc to Mr.S.Kumaradevan, Advocate Sr.No.823

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CSL/23.01.2019