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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.31154 of 2019

and

Crl.M.P.No.16966 of 2019

V.Pharaman

...Petitioner

-Vs-

1.State Rep by
Inspector of Police
Thiruppapuliyur Police Station
Cuddalore.

2.Subbulakshmi

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in Crime No.77 of 2018 on the file of the Inspector of Police, Thiruppapuliyur Police Station, Cuddalore and quash the same.

For Petitioner : Mr. A.Gopinath

For Respondent : Mr.M.Mohamed Riyaz for R1
Additional Public Prosecutor

: No appearance for R2

ORDER

This petition has been filed by the accused to quash the First Information Report in Crime No.77 of 2018 on the file of the first respondent.

2. The learned counsel for the petitioner has submitted that based on the petition filed by the second respondent under Section 156(3) Cr.P.C, the learned Judicial Magistrate No.III, Cuddalore, has forwarded the said complaint to the first respondent to register the First Information Report and based on the same, the first respondent has registered the First Information Report in Cr.No.77 of 2018 under Sections 294(b), 509, 507, 506(i) IPC, Section 66A of Information Technology Act, 2000, and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002. He further submitted that the Hon'ble Supreme Court in Priyanka Srivatsava and another Vs. State of UP and others, 2015 (6) SCC 287 has held that the petition under Section 156(3) Cr.P.C., should be supported by an affidavit duly sworn by the applicant, but in this case, the second respondent has not



filed any affidavit in support of her petition. He further submitted that the learned Judicial Magistrate No.III, without considering the said fact, has mechanically forwarded the complaint to the first respondent directing him to register the First Information Report and based on the said direction, the first respondent has registered an FIR and therefore, he prayed to quash the First Information Report.

3. As per the order of this Court dated 20.11.2019, the petitioner has sent a private notice by RPAD to the second respondent and also filed AOS stating that notice which was sent by RPAD was already served on the second respondent on 10.12.2019. Hence, the name of the second respondent has been printed in the cause-list. But the second respondent has not appeared either in person or through counsel. Hence, after hearing the arguments of the learned counsel for the petitioner and learned Additional Public Prosecutor for the first respondent order is being passed in this petition.

4. A perusal of the typed set of papers shows that the second respondent has filed a petition before the learned Judicial Magistrate No.III, Cuddalore on 21.02.2018 and the same was forwarded to the first respondent under Section 156 (3) Cr.P.C. But the said application was not supported by an affidavit duly sworn by the applicant as directed by the Hon'ble Supreme Court in Priyanka Srivatsava and another Vs. State of UP and others, 2015 (6) SCC 287 and therefore, this Court is of the view that the order passed by the learned Judicial Magistrate No.III, forwarding the petition under Section 156(3) Cr.P.C., to the first respondent directing him to register the First Information Report itself is unsustainable and consequently, the First Information Report is liable to be quashed.

5. In the result, this Criminal Original Petition is allowed and the First Information Report No.77 of 2018 is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

Dna

To

1.The Inspector of Police
Thiruppapuliur Police Station
Cuddalore.



2.The Public Prosecutor
High Court, Madras.

+1cc to Mr.A.Gopinath, Advocate, S.R.No. 106431

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GN(23/01/2020)