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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.7473 of 2015

and

MP(MD)No.1 of 2015

P.Anthireya Jebamani

... Petitioner / Sole Accused

Vs.

1.The State, rep.by

The Sub Inspector of Police,

Kalakkadu Police Station,

Tirunelveli District.

... 1st Respondent / Complainant
(Crime No.240 of 2014)

2.Alleluyah Glory

...2nd Respondent / Defact complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C No.362 of 2014 pending before the learned Judicial Magistrate Court, Nanguneri, Tirunelveli District in Crime No.240 of 2014 on the file of the first respondent under Section 294 (b), 506(i) IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Women Act, 1998 and quash the same as illegal.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.A.Robinson,
Government Advocate
(Cr1.side) for R1
No appearance for R2

ORDER

The second respondent herein is the defacto complainant. She got married to one Yanose in the year 2000. She has a daughter by name Jensy. Her husband had left her. But, there was no formal dissolution of marriage. While so, she developed a live-in relationship with the petitioner herein namely, Anthireya Jebamani. The defacto complainant went with the petitioner to Mumbai along with her daughter sometime in June 2013. The defacto complainant



had contributed a sum of Rs.50,000/- while the petitioner had contributed a sum of Rs.1,00,000/- and they had lived in a rental house. The case of the defacto complainant is that the petitioner herein had contacted the owner of the said rental house and took away the entire advance amount and returned to his native place. On hearing about the same, the defacto complainant had confronted the petitioner on 26.06.2014 at about 10.00 A.M in Main Road, Keezhasadaimangulam. The petitioner is said to have physically assaulted her and also abused her and held out dire threats. Hence, the defacto complainant lodged a complaint before the Kalakkadu Police Station, Tirunelveli District in Crime No.240 of 2014. Investigation was undertaken and final report was filed. Cognizance of the offences was taken under Sections 294(b), 506(i) IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Women Act, 1998 in C.C No.362 of 2014 on the file of the learned Judicial Magistrate Court, Nanguneri, Tirunelveli District.

2. When the matter was taken up for hearing, this Court suggested to the counsel for the petitioner that the petitioner would do well to pay a sum of Rs.50,000/- contributed by the defacto complainant as a part of the rental advance. The petitioner agreed to do so and has undertaken to deposit the said amount of Rs.50,000/- within a period of four weeks from the date of receipt of a copy of this order to the credit of C.C No.362 of 2014 on the file of the Judicial Magistrate Court, Nanguneri, Tirunelveli District. On such deposit, the court below shall hand over the said amount to the defacto complainant without any fail.

3. It is seen that the quarrel took place between the petitioner and the second respondent had given rise to the criminal prosecution. Admittedly, the second respondent was having a live-in relationship with the petitioner herein. The second respondent is a married woman. But then, her marriage with her husband Yanoze was not dissolved in the manner known to law. While so, on account of the break in the relationship with the petitioner herein, the quarrel in question had taken place. I am of the view that this is a case in which Section 95 of IPC can very well be invoked. Section 95 of IPC reads as under :

"95. Act causing slight harm.—Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

4. In this case, the petitioner has demonstrated his bonafides by undertaking to deposit a sum of Rs.50,000/-. Therefore, taking note of these aspects, the impugned proceedings stand quashed. This criminal original petition stands allowed. If the petitioner does not deposit the amount as undertaken before this Court within the above said period, the order now passed will not enure to his



benefit and the prosecution against him will go on. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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To

1.The Sub Inspector of Police,
Kalakkadu Police Station,
Tirunelveli District.

2.The Judicial Magistrate Court, Nanguneri, Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

+1CC to Mr.T.LAJAPATHI ROY, Advocate (SR-92767[F] dated
18/10/2019)

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VB(29.01.2020) 3P 5C