

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.2219 of 2020
and Crl.MP.No.1389 of 2020

V.R.Rajasekaran,
S/o. Late Ramu,
F-1, LRV Apartment,
No.157, Vijaya Eswari Steet,
Ayyavoo Colony,
Aminjikarai,
Chennai - 600 029. Petitioner/Accused

Vs.

1. The Inspector of Police,
Aminjikarai Police Station,
Anna Nagar,
Chennai. Respondent/Prosecuting
Complainant

2. Thilakavathi,
D/o.Thulasingham,
No.20, 62 Street,
Korattur,
Chennai - 600 080. Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records from the first respondent police in Crime No.575 of 2019 and to quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.V.Krishnamoorthy
For Respondent :
For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor.
For R2 : Mr.Ramesh Umapathy

ORDER

This petition has been filed to quash FIR in Crime No.575 of 2019, registered for the offences under Sections 294 (b), 323 and 506(2) of IPC and Section 4 of the Tamil Nadu

Prohibition of Harassment of Women Act, 2002, as against the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution. On the false complaint lodged by the second respondent, this false case has been registered as against the petitioner for the above said offences and the present FIR is nothing but clear abuse of process of law. He further submitted that the offences as alleged by the prosecution are not at all attracted as against the petitioner, in the absence of the ingredients to attract those offences under Sections 294(b), 323 and 506(2) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. The second respondent lodged this complaint with oblique motive and only to tarnish the image of the petitioner in the society.

2.1. He further submitted that even according to the second respondent there are two occurrences took place and it cannot be clubbed together and registered one FIR in Crime No.575 of 2019. According to the second respondent on 06.08.2019, the petitioner called the defacto complainant and abused her with filthy language. Thereafter on 14.08.2019, when the defacto complainant along with her parents went to the office of the petitioner for receiving salary, the petitioner attacked the defacto complainant and her parents. Therefore, there are two occurrences took place on 06.08.2019 and 14.08.2019 and both occurrences cannot be clubbed together and lodged the complaint as against the petitioner.

2.2. Insofar as the Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 is concerned, there is absolutely no occurrence took place and no offence is made out as against the petitioner. He also relied upon the judgment reported in (1992) SCC CrL. 426 in the case of Bajanlal v. State of Haryana and the order dated 06.12.2018 passed by this Court in CrL.O.P.No.7405 of 2017 in the case of G.Logeswaran Vs. State rep. by, Inspector of Police, and anr. Hence, he sought for quashment of the entire proceedings.

3. Per contra, the learned counsel appearing for the second respondent submitted that there are specific allegations to attract the offences under Sections 294(b), 323 and 506(2) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, as against the petitioner. Further he submitted that this is only FIR as such, it has to be investigated in depth and only upon filing of final report, it has to be ascertained, whether the petitioner committed the offence or not. Therefore, he sought for dismissal of the quash petition.

4. Heard Mr.V.Krishnamoorthy, learned counsel appearing for the petitioner, Mr. Ramesh Umapathy, learned counsel appearing for the second respondent and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent.

5. The petitioner is an accused in Crime No.575 of 2019 registered for the offences under Sections 294(b), 323 and 506 (2) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. According to the defacto complainant/second respondent, on 15.07.2019, she joined as an employee to the post of "front office executive" in the petitioner's company viz., Silicon Radio House. Thereafter, the petitioner started to have obscene dialogue with the defacto complainant for which, the defacto complainant warned him. While being so, on 06.08.2019, the petitioner called the defacto complainant to his cabin and asked her to come on Sunday to go out. When she refused for the same and also when she informed that she will lodge complaint, the petitioner threatened her with dire consequences and abused her with filthy language. It was informed to her parents and then she discontinued the job. Thereafter, she was asked to visit office to receive salary. Accordingly on 14.08.2019, when the defacto complainant went to the office of the petitioner herein along with her parents, the petitioner attacked the defacto complainant and her parents. Therefore, they sustained injury and went to the government hospital.

6. The learned counsel appearing for the petitioner submitted that to attract the offence under Section 294(b) of IPC, the occurrence ought to have been taken place in the public place. To support of his contention, he also relied upon the judgment reported in (1992) SCC CrL. 426 in the case of Bajanlal v. State of Haryana and the order dated 06.12.2018 passed by this Court in CrL.O.P.No.7405 of 2017 in the case of G.Logeswaran Vs. State rep. by, Inspector of Police, and anr. In the case on hand, prima facie ingredients are very much available to attract the offences under Sections 294(b), 323 and 506(2) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. Therefore the entire facts of the case on hand are completely different with the judgment cited by the learned counsel appearing for the petitioner and the same are not applicable to this present case.

7. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offences, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence

and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

8. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.02.2019 in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that

the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

9. In view of the above discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. However, considering the crime is of the year 2019, the first respondent is directed to complete the investigation in Crime No.575 of 2019 and file a final report as early as possible, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Aminjikarai Police Station,
Anna Nagar,
Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.

CRL.O.P.No.2219 of 2020
and Crl.MP.No.1389 of 2020

VS (CO)
RMP (07/10/2020)