

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved On : 05.11.2020

Order Delivered On : 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P No.22708 of 2019
and Crl.M.P.No.11811 of 2019

1. Malarvizhi

2. Ramaiah Petitioners/Accused 2 & 3

Vs.

1. The State of Tamil Nadu,
Rep. by the Inspector of Police,
All Women Police Station,
Ariyalur and District,
Crime No.8 of 2019.

2. Thenmozhi Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the entire records pertaining to the Crime No.8 of 2019 on the file of the 1st respondent and quash the same insofar as the petitioner concerned.

For Petitioner : Mr.B.Kumarasamy

For 1st Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

For 2nd Respondent : No appearance

O R D E R

The present Criminal Original Petition has been filed seeking a relief to quash the F.I.R. registered in Crime No.8 of 2019 on the file of the first respondent police, as illegal.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent police.

3. Though notice has been served to the second respondent, there is no representation on her side for placing the case.

4. The petitioners herein are arrayed as accused Nos.2 and 3 in Crime No.8 of 2019 pending on the file of the first respondent police. The said F.I.R has been registered against three persons for the offences punishable under Sections 294(b), 323, 506(ii) of I.P.C., and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

5. The learned counsel for the petitioners would submit that in respect of the alleged offence under Sections 294 (b), 323, 506 (ii) of I.P.C., and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, the averment found in the F.I.R. discloses the fact that the alleged occurrence had not happened in the public place. Further, the first accused alone assaulted the defacto complainant and made a life threat. It is very clear that the said averment did not disclose the fact that the petitioners herein did not commit any harassment towards the defacto complainant and therefore, registering the case against these petitioners is abuse of process of law.

6. In response to the said submission made by the learned counsel appearing for the petitioners, the learned Additional Public Prosecutor would contend that during the relevant point of time, the petitioners made a life threat to the defacto complainant and therefore, there is no illegality in registering the case against the petitioners.

7. Now, on considering the rival submissions made on either side, it is true that the alleged occurrence had happened in the residence, which belongs to one Santhi. Further, the first accused, who is the son of the petitioners insulted the defacto complainant by using filthy language and also he alone pulled the defacto complainant and made assault by using his cheppels.

8. In the said circumstances, only allegation levelled against the petitioners is that they made a life threat to the defacto complainant.

9. In the case of K.Jayaramanuju Vs. Janakaraj and Others reported in 1996 (1) CTC 470, Karpagavinayagam, J. [as His Lordship then was] in paragraph No.5, has laid down as follows:-

"To prove the offence under Section 294 (b) I.P.C. mere utterance of obscene words are not sufficient, but there must be a further proof to establish that it was to the annoyance of others, which is lacking in this case."

10. In the decision reported in 1988 (2) MWN (Cr.) 184, it has been laid down by the learned Judge of this Court as under:-

"Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually."

11. In the light of the above-referred two decisions, the allegation contained in the F.I.R. proves that the F.I.R. did not constitute the ingredients of the offences under Sections 294 (b) and 506 (2) of I.P.C.

12. On a perusal of the complaint/F.I.R., it is seen that no obscene words were uttered by the petitioners by which the witnesses felt annoyed. At this juncture, it is relevant and useful to see the judgment of the Hon'ble Apex Court in Manik Taneja and another Vs. State of Karnataka and another reported in 2015 (3) SCC (Cr1.) 132 : 2015 (7) SCC 423, wherein, the Hon'ble Apex Court has held as follows:-

"8. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is as to whether the controverted allegations as made, prima facie, establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit the prosecution to continue. Where, in the opinion of the Court, the chances of ultimate conviction is bleak and no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may quash the proceeding even though it may be at a preliminary stage."

13. So applying the above-referred judgments to the case on hand, as already observed, the entire averments found in the F.I.R., reveal the fact that the alleged occurrence had not happened in the public place and also the petitioners have not used any obscene words and they did not cause any real life threat. At any event, I am of the considered opinion that permitting the investigation is unnecessary. Therefore, the

F.I.R. registered in Crime No.8 of 2019 against the petitioners alone shall stand quashed and accordingly, the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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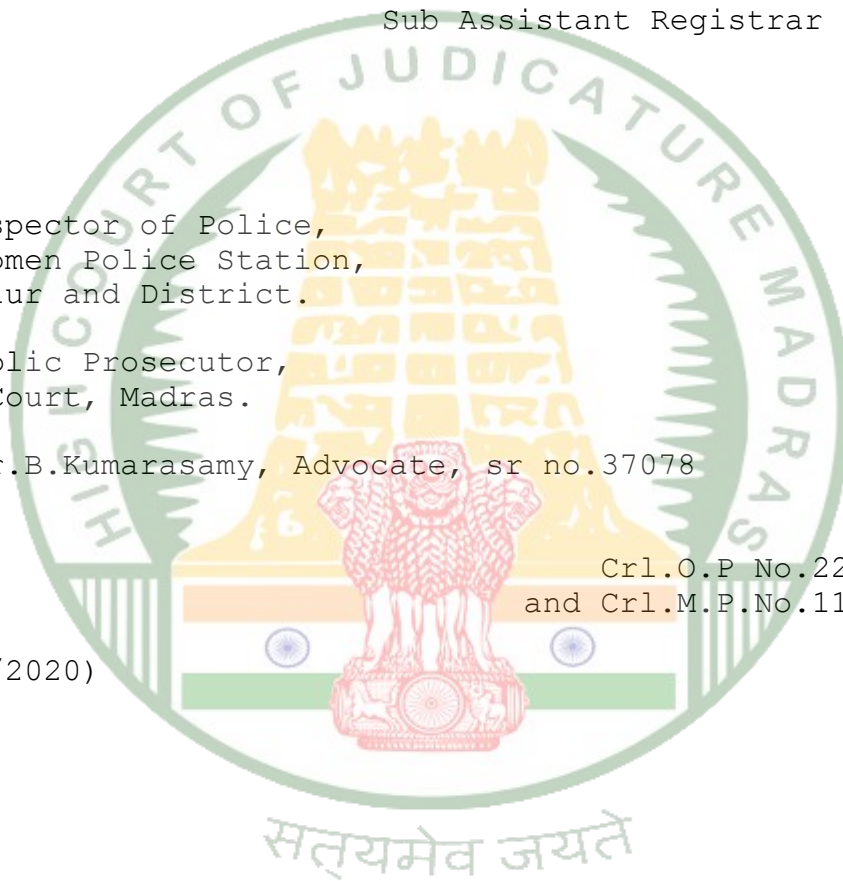
To

1. The Inspector of Police,
All Women Police Station,
Ariyalur and District.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Kumarasamy, Advocate, sr no.37078

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PM(CO)
RMP (14/12/2020)



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