



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**
Criminal Original Petition[MD] No.2775 of 2020
and
Crl.M.P[MD]Nos.1438 and 1439 of 2020

Rajeshkumar : Petitioner / Sole Accused

vs.

1.The State

Rep. by the Inspector of Police,
AWPS Police Station,
Andipatti,Theni District. : 1st Respondent / Complainant
(In crime No.18 of 2019)

2.Praveena : 2nd Respondent / Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to Spl.S.C.No.92 of 2019 on the file of the learned Fast Track Mahila Court, Theni and quash the same.

For Petitioner : Mr.S.Mahendrapathy
For Respondents : Mr.S.Chandrasekar
Addl. Public Prosecutor (for R1)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.92 of 2019 on the file of the learned Fast Track Mahila Court, Theni for the offences under sections 12 of POCSO Act and Sections 294(b), 323 and 506(i) of IPC, as against the petitioner.

2.The case of the prosecution is that on 15.03.2018 when the de-facto complainant was studying at Udhaya School of Engineering at Ammandivilai, Kanyakumari District, the petitioner proposed that he is willing to marry her and also threatened her not to inform the same to others. Further, on 17.04.2019, at about 09.30 p.m, the petitioner came to the house of the de-facto complainant and assaulted with the hands and damaged the household articles and fled away from the occurrence place and threatened her with filthy language through phone by using various numbers.



3. The learned counsel appearing for the petitioner would submit that the learned trial Judge ought not to have taken the final report on file, since there is a delay in preferring the complaint. When the occurrence took place on 15.03.2018, the complaint had been lodged on 22.09.2018. He would further submit that as per the complaint, the petitioner threatened the defacto complainant on 15.03.2018, but the petitioner and the defacto complainant regularly had a chat in the Whatsapp as a proof even the defacto complainant and the petitioner had a chat from 02.03.2019 onwards. He would also submit that from the materials available on records, it is clear that no necessary ingredients have been mentioned in the final report to attract the penal offence under Sections 294(b), 323 and 506(i) IPC under Sections 12 of POCSO Act would not attract as against the petitioner. Hence, he prayed for quashing the proceedings in Spl.S.C. No.92 of 2019 on the file of the Fast Track Mahila Court, Theni.

4. The learned Additional Public Prosecutor appearing for the first respondent police would submit that there are specific allegations as against the petitioner that he abused the defacto complainant with filthy language. He would further submit that the case stands posted for evidence and at this stage, the proceedings cannot be quashed. Hence, he prayed for dismissal of the petition.

5. This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

6. At this juncture, the learned counsel appearing for the petitioner would submit that the personal appearance of the petitioner before the trial Court, may be dispensed with. He would also seeks that the time frame may be fixed to the trial Court to complete the trial.

7. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

8. The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it



is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**. The learned Judge, Fast Track Mahila Court, Theni is directed to complete the trial in Spl.S.C. No.92 of 2019 as expeditiously as possible and pass final order, preferably, within a period of four months from the date of receipt of a copy of the order.

9. Accordingly, this Criminal Original Petition is closed. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

skn

To

- 1.The Judge,
Fast Track Mahila Court,
Theni.
- 2.The Inspector of Police,
AWPS Police Station,
Andipatti,Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.MAHENDRAPATHI, Advocate (SR-7167[F] dated 19/02/2020

Criminal Original Petition[MD] No.2775 of 2020
17.02.2020

SMA/10/03/2020/3P/5C