



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. (MD)No.8099 of 2020

and Crl.M.P. (MD)No.3854 & 3855 of 2020

WEB COPY

1.N.Munish

2.Lalitha

... Petitioners

Vs.

1.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(In Crime No.11 of 2020)

2.Sudarmathi

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.89 of 2020 pending on the file of the Additional District Munsif Cum Judicial Magistrate, Manamadurai, Sivagangai District and quash the same.

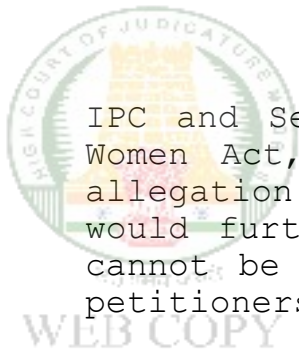
For Petitioners : Mr.N.Tamilmani
For R-1 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a relief to call for the records in C.C.No.89 of 2020 pending on the file of the learned Additional District Munsif Cum Judicial Magistrate, Manamadurai, Sivagangai District and quash the same as illegal.

2.The learned counsel appearing for the petitioners would submit that the allegation levelled against the petitioners in C.C.No.89 of 2020 is entirely false. Further, filing of the charge sheet against the petitioners is nothing but an abuse of process of law. The petitioners, who are being Doctors, never made any harassment towards the second respondent as alleged in FIR. In fact, the petitioners are taking steps for reunion. According to him, the allegation levelled by the second respondent is nothing but cock and bull story created by the second respondent with ulterior motive and thereby, the prayer sought for by petitioner has to be considered.

3.Per contra, the learned Additional Public Prosecutor appearing for the first respondent would submit that after due enquiry and after recording 161(3) statements of the six witnesses, the first respondent police had come to a positive conclusion that the petitioners committed the offence under Sections 294(b), 506(i)



IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. Hence, only during at the time of trial, the allegation levelled by the second respondent has to be tested. He would further submit that since the case is posted for trial, it cannot be said that a false case has been registered against the petitioners.

4.Upon considering the arguments advanced by the learned counsel appearing on either side, it is true that the charge sheet has been filed against the petitioners for the offence punishable under Sections 294(b), 506(1) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. Further, before filing charge sheet, apart from the second respondent herein, five witnesses have been examined on the side of the prosecution. All the witnesses, examined on the side of the prosecution, supported the version stated by the second respondent.

5.In this regard, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **SAU. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others in Crl. Appeal No.255 of 2019**, wherein our Hon'ble Apex Court has held as follows :

"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."

Hence, applying the principles set out in the judgment of the Hon'ble Supreme Court, only during at the time of trial, the allegation has to be tested as to whether it is true or false.

6.In otherwise, it cannot be said that the first respondent filed the charge sheet as against the petitioners with malicious intention. Further, the grounds raised by the petitioners did not constitute an abuse of process of law. Accordingly, this criminal original petition is dismissed. However, considering the fact that the petitioners are Doctors, liberty is given to the petitioners to approach the learned Additional District Munsif Cum Judicial Magistrate, Manamadurai, Sivagangai District for dispensing their personal appearance by filing application under Section 205 Cr.P.C. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



gns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Additional District Munsif Cum Judicial Magistrate,
Manamadurai, Sivagangai District

2.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

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

+1 CC to M/s.N. TAMILMANI, Advocate (SR-13599[F] dated 04/08/2020)

Crl.O.P. (MD)No.8099 of 2020

04.08.2020

SPU(24.08.2020) 3P 5C