



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P. (MD)No.14150 of 2020

and

Crl.MP(MD) Nos.6539 & 6540 of 2020

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S.Gurusamy

... Petitioner/Accused

Vs.

1.State represented by

The Inspector of Police,
All Women Police Station,
Paramakudi Police Station,
Ramanathapuram District,
(Crime No.7/2020)

...1st Respondent /Complainant

2.Puvanesari

...2nd Respondent/Defacto
Complainant

Prayer: This Criminal Original petition has been filed under Section 482 of Criminal Procedure Code, to call for the records and quash the charge sheet filed against the petitioner in Spl.SC.No.19 of 2020 on the file of the learned Mahila Court Judge, Ramanathapuram in respect of Crime No.7 of 2020, on the file of the 1st respondent police.

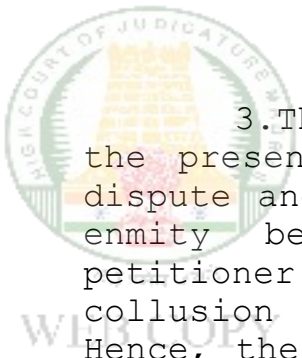
For Petitioner : Mr.H.Arumugam

For R1 : Ms.S.E.Veronica Vincent
Government Advocate

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the charge sheet filed against the petitioner in Spl.SC.No.19 of 2020 on the file of the learned Mahila Court Judge, Ramanathapuram in respect of Crime No.7 of 2020, on the file of the 1st respondent police.

2. The case of the prosecution is that based on the complaint given by the second respondent/defacto complainant, a case in Crime No.7 of 2020 has been registered against the petitioner for the offences punishable under Sections 11(1) & 12 of Protection of child from sexual offences Act, 2012, and subsequently charge sheet has also been laid and the same was taken on file in Spl.SC.No.19 of 2020 on the file of the learned Mahila Court Judge, Ramanathapuram.



3.The learned counsel for the petitioner would submit that the present case has been registered as an outcome of election dispute and the succeeded candidate took advantage of the earlier enmity between the defacto complainant's brother and the petitioner and influenced the defacto complainant's family and in collusion with them, the present false case has been registered. Hence, the learned counsel for the petitioner would pray to quash the above case.

4.The learned Additional Public Prosecutor (Crl.side) appearing for the 1st respondent would state that the allegations are serious in nature and would vehemently object for quashing the said case.

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Crl.side) appearing for the 1st respondent and perused the materials available on record. Since no adverse order is going to be passed, notice to the 2nd respondent is dispensed with.

6.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

7.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioner and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. More particularly, the case has been registered against the petitioner, under Sections 11(1) & 12 of Protection of child from sexual offences Act, 2012. Considering the facts and circumstances of the case, this Court is not inclined to quash the proceedings in Spl.SC.No.19 of 2020, on the file of the learned Mahila Court Judge, Ramanathapuram in connection with Crime No.7 of 2020, on the file of the 1st respondent police.



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8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Judge,
Mahila Court, Ramanathapuram.
- 2.The Inspector of Police,
All Women Police Station,
Paramakudi Police Station,
Ramanathapuram District,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.H.Arumugam, Advocate SR.No.24575

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