



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD).No.15608 of 2020
and
Crl.M.P(MD).No.7637 of 2020

Karthik Murugan

... Petitioner/Accused No.5

vs.

1.The State Represented by
Sub Inspector of Police,
S.S.Colony Police Station, Madurai
(Crime No.782 of 2019)

2.C.Vijayakumar
Sub Inspector of Police
S.S.Colony Police Station
Madurai

...Respondents/Defacto Complainant

Prayer : This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records from the first respondent police in Crime No.782 of 2019 on the file of the first respondent police and quash the same as devoid of merits against the petitioner.

For Petitioner : Mr.A.Haja Mohideen

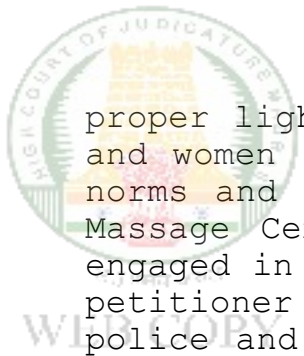
For R1 : Mr.V.Neelakandan

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records from the first respondent police in Crime No.782 of 2019 on the file of the first respondent police and quash the same as devoid of merits against the petitioner.

2.The case of the prosecution is that based on the secret information, the defacto complainant along with other police party went to the premises of Ashwin Ayurvedic Kerala Centre on 31.08.2019 and on searching, it was found that the owner of the said Ayurvedic Centre one Vijilal was conducting Massage Centre, without proper certificate for massage girls, without proper uniform and with improper and non-functioning camera and by locking the door, without



proper lighting and without maintaining proper register and the men and women found in a locked room. Thus, they have violated all the norms and rules and illegally doing prostitution under the name of Massage Centre. On enquiry, came to know that the petitioner was engaged in prostitution by engaging teenage women and therefore, the petitioner along with other women were arrested by the respondent police and seized the articles used under the Immoral Traffic Act. Subsequently, the first respondent police registered a case in Crime No.782 of 2019 for the offence under Sections 4(2)(c), 4(2)(a), 5(1)(a), 5(1)(d) of Immoral Traffic (Prevention) Act, 1956 and under Section 370 A(2) of Indian Penal Code against the petitioner and others and on the same day itself, they were remanded to Judicial Custody and thereafter, the petitioner herein was released by an order of this Court in Crl.OP(MD).No.13074 of 2019.

3.The learned counsel for the petitioner would submit that the petitioner had completed undergraduate course of BBA in Rural Industry and Management at Gandhi Gram University in the year 2010-2013. Subsequently, he had master degree of MBA at PSNA Engineering College at Dindigul in the year 2013-2015 and during his P.G. Course, he was selected in Campus interview in Just Dial Limited Company as placement from College and thereafter, got employment in Canvera immediately. He further submitted that on 31.08.2019, the petitioner went to the Ashwin Ayurvedic Kerala Centre to just see a waiting customer, at that time, the police party entered the premises and took custody of the petitioner also. The petitioner was standing in the reception, which was recorded in the video footage of the above centre. The respondent police has entered the petitioner's name in the register of the said centre. He further submitted that the petitioner never involved as alleged by the respondent police and in the impugned FIR, the role of the petitioner was not mentioned and he was simply implicated as 5th accused without giving any specific allegation against him. The confession of the first accused Gayathri, is a clear case of fabricated story of the respondent police to rope the petitioner. The prosecution case and the entire averments in the impugned FIR is violation of all principles of law and the facts of this case is covered by the Judgment of this Court where this Court quashed the FIR in the case of **Kadek Dwi Ani Rasmini Vs.K.Natarajan, Inspector of Police and others, reported in 29019(1) CTC 385**. The learned counsel further submitted that in the impugned FIR, the role of the petitioner was not mentioned and he was simply implicated as 5th accused without giving any specific allegation against him. Therefore, the filing of the FIR against the petitioner is abuse of process of law and it has to be quashed.

4.The learned Additional Public Prosecutor appearing for the first respondent, on instructions, would state that without any permission and without maintaining proper register, the above named Massage Centre was illegally run by one Vijilal where the respondent



police registered a case in Crime No.782 of 2019 for the offence under Sections 4(2)(c), 4(2)(a), 5(1)(a), 5(1)(d) of Immoral Traffic (Prevention) Act, 1956 and under Section 370 A(2) of Indian Penal Code against the petitioner and others. Subsequently, the respondent police arrested the petitioner and remanded him to judicial custody.

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5. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the 1st respondent.

6. 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 has also 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, which has been echoed in the judgment of 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.**

7. In the present case on hand, absolutely there is no allegation raised against the petitioner in the FIR and it merely states that enquiry with the persons nearby revealed that under the name of massage centre, the petitioner and others were doing brothel and the 1st accused alone had given confession statement about the allegation levelled against her. Considering that the petitioner herein is a post graduate who had worked in Just Dial Ltd., from 2015 onwards and thereafter in Canvera.com as Relationship Executive from 2017 onwards, where, he was honoured with several awards and also considering that there is no specific allegation against the petitioner in the said FIR, I am inclined to quash the FIR, in respect of the petitioner alone.

8. Accordingly, the First Information Report in Crime No.782 of 2019 on the file of the first respondent police station is hereby quashed in respect of the petitioner alone and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

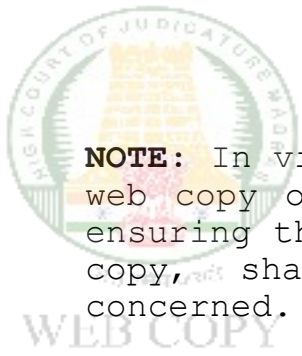
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Sub Assistant Registrar(CS)

MSA

<https://hcservices.ecourts.gov.in/hcservices/>



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 Sub Inspector of Police
S.S.Colony Police Station
Madurai
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
Crl.O.P.(MD).No.15608 of 2020 and
Crl.M.P(MD).No.7637 of 2020
23.12.2020

ES (CO)
SRS (19/03/2021) 4P : 3C