



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P. (MD)No.14481 of 2020

and

Crl.M.P. (MD)Nos.6801 & 6802 of 2020

WEB COPY

1.Xavier @ Stany

2.Sahayam ...Petitioners/Accused Nos. 1 & 2

Vs.

1.State Rep.by

The Inspector of Police,

Kanyakumari Police Station,

Kanyakumari District. ... 1st Respondent/Complainant

(In Crime No.323 of 2014)

2.B.Helena

... 2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in C.C.No.27 of 2019 on the file of the learned Additional Mahila Court, (Magistrate Level), Nagercoil and quash the same as illegal in respect of the petitioners.

For Petitioners : Mr.G.Anto Prince

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

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.27 of 2019 on the file of the learned Additional Mahila Court, (Magistrate Level), Nagercoil.

2.The learned counsel appearing for the petitioners would submit that due to some dispute the second respondent preferred a complaint before the first respondent police and based on the complaint, a case was registered in crime No.323 of 2014 for the offense under Section 294(b), 323, 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. He would further submit that the respondent police, after completion of investigation, the respondent police filed the charge sheet in C.C.No.27 of 2019 on the file of the learned Additional Mahila Court, (Magistrate Level), Nagercoil.

3.The learned counsel for the petitioners would state that the allegation against the petitioners is that on 26.06.2014, near Georgiar Gurusadi, the accused persons abused the defacto

complainant and her husband in filthy language and threatened them with dire consequences. They have also assaulted them with stick and thereby caused simple injury. Hence, the present complaint has been foisted as against the petitioners. He would further submit that the defacto complainant, who is the Union Councillor, with a malafide intention, had foisted the false complaint. He would also submit that there is no ingredients to attract offence under provisions of the Tamil Nadu Prohibition of Women Harassment of Women Act and the allegations in the charge sheet are vague and only with an intention to harass the petitioners, the second respondent filed the complaint. Hence, the petitioners filed the present petition seeking the aforesaid relief.

4.The learned Additional Public Prosecutor appearing for the first respondent, on instructions, would state that the FIR is specific about the allegations against the petitioners and therefore, he would object for quashing the FIR.

5.Heard the learned counsel for the petitioners and as well as the learned Additional Public Prosecutor appearing for the first respondent. In view of the order going to be passed, notice to the second respondent is not necessary.

6.This Court while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, 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, which has been echoed in the judgement of the Hon'ble Supreme Court dated 02.12.2019 in **Crl.A. No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi and another.**

7.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioners and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. However, considering the fact that the petitioners are working at Chennai, the personal appearance of the petitioners before the trial Court is dispensed with except during the dates on which, the learned trial Judge insists their appearance and if they do not appear, the learned Judge may proceed in the manner known to law. Considering the facts and circumstance of the case, the Additional Mahila Court, (Magistrate Level), Nagercoil is directed to conclude the entire trial proceedings in C.C.No.27 of 2019 within a period of six months from the date of receipt of a copy of this order.



8. With the above direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

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 Judge,
Additional Mahila Court, (Magistrate Level),
Nagercoil.
2. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
3. The Registrar(Judicial)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Anto Prince, Advocate Sr.No. 25200

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VB (19.01.2021) 3P 5C