



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P. (MD) .No.14855 of 2020

and

Crl.M.P. (MD) Nos.7076 & 7078 of 2020

R.Paul Raj

... Petitioner/Accused No.1

vs.

1. The State Rep. by
The Inspector of Police,
Melapalayam Police Station,
Melapalayam,
Tirunelveli District.
In Crime No.420 of 2017

... 1st Respondent/Complainant

2. Muthuselvi

... 2nd Respondent/Defacto
Complainant

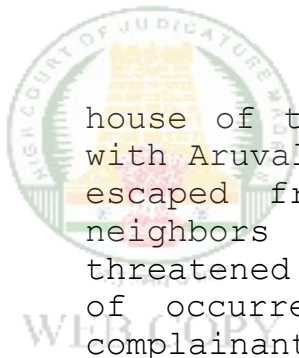
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in P.R.C.No.144 of 2019 on the file of the learned Judicial Magistrate No.IV, Tirunelveli and quash the same as illegal in so far as the petitioner concerned.

For Petitioner	: Mr.G.Anto Prince
For 1 st Respondent	: Mrs.S.E.Veronica Vincent Government Advocate(Crl.Side)

O R D E R

This Criminal Original Petition has been filed to call for records pertaining to the charge sheet in P.R.C.No.144 of 2019 on the file of the learned Judicial Magistrate No.IV, Tirunelveli, and quash the same as illegal in so far as the petitioner is concerned.

2.The allegation in the FIR is that there is a money dispute between the husband of the defacto complainant and the petitioner and in this regard, during midnight on 14.07.2017, the petitioner along with some persons came to the house of the defacto complainant and had forcibly taken away her son and thereafter they left him after
<https://hcservices.courts.gov.in/Hcservices> on 15.07.2017, the accused persons came to the



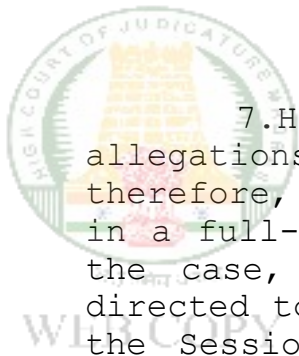
house of the defacto complainant and attacked her and her daughter with Aruval and iron rod and the defacto complainant and her daughter escaped from the attack and shouted and on hearing the same, neighbors came to the scene of occurrence and the accused persons threatened them with dire consequences and fled away from the scene of occurrence. On the complaint of the 2nd respondent/defacto complainant, FIR in Crime No.420/2017 has been registered against the petitioner/A2 and other accused persons for the offences under Sections 147, 148, 294(b), 364A, 307 IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Woman Act, 2002 and after filing of the charge sheet, the same was taken on file in PRC.No.144 of 2019 on the file of the learned Judicial Magistrate No.IV, Tirunelveli.

3.The learned counsel for the petitioner would state that the alleged occurrence as per the version of FIR had taken place on 14.07.2017, but the complaint was registered only on 15.07.2017 and absolutely, the offences under Sections 147, 148, and 364(A) IPC are not made out against the petitioner. He would further state that only there was a wordy quarrel between the defacto complainant, her husband and the petitioner and 10 others, but suppressing the same, the defacto complainant has lodged the present false complaint only to harass the accused persons and there was no threat as alleged by the defacto complainant. Thus, he would pray to quash the criminal proceedings.

4.The learned Additional Public Prosecutor would state that the petitioner has been charged for the offences under Sections 147, 148, 294(b), 364A, 307 IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Woman Act, 2002 and the grounds raised in this petition can be proved only in a full-fledged trial and therefore, the interference of this Court is not necessary.

5.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor. In view of the order going to be passed, notice to the 2nd respondent is not necessary.

6.This Court while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge sheet, 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 judgment 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 petitioner and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. Considering the facts and circumstance of the case, the learned Judicial Magistrate No.IV, Tirunelveli, is directed to forthwith commit the case in P.R.C.No.144 of 2019 before the Sessions Court concerned and thereafter, the learned Sessions Judge concerned is directed to dispose of the sessions case, within a period of six months from the date of committal proceedings.

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

Sd/-
Assistant Registrar (Crl.side)

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)

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 Sessions Judge, Tirunelveli.
 2. The Judicial Magistrate No.IV, Tirunelveli
 3. The Inspector of Police,
Melapalayam Police Station,
Melapalayam,
Tirunelveli District.
 4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- + 1 CC TO Mr.G.ANTO PRINCE, ADVOCATE IN SR No. 25857

BALA/RM
TE : 18/01/2021 : 3P/6C

ORDER MADE IN
Crl.O.P.(MD).No.14855 of 2020
DATED : 16.12.2020