



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.15121 of 2020

and

Crl.M.P.(MD) Nos.7257 & 7258 of 2020

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Mrs.Selvakumari

..Petitioner/Accused No.3

Vs

1.State Rep by

The Inspector of Police,

Eraniel Police Station,

Kanyakumari District.

(In Crime No.633 of 2014)

..1st Respondent/Complainant

2.Mrs.Mary Leelabai.

..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.17 of 2015, on the file of the learned District Munsif cum Judicial Magistrate, Eraniel and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.G.Anto Prince

For R1

:Ms.S.E.Veronic Vincent

Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to quash the Charge Sheet in P.R.C.No.17 of 2015, on the file of the learned District Munsif cum Judicial Magistrate, Eraniel in so far as the petitioner is concerned.

2.The case of the prosecution is that on 22.09.2014 at about 8.00pm, the alleged accused persons had abused the defacto complainant in filthy language and assaulted the defacto complainant, thereby a case in Crime No. 633 of 2014 has been registered and the case was charge sheeted in P.R.C.No.17 of 2015, on the file of the learned District Munsif cum Judicial Magistrate, Eraniel. According to the petitioner, even on the face of the complaint, the alleged offences under Sections 294(b), 352 and 506 (ii) IPC is not made out as against the petitioner. Hence, the petitioner would pray for quashing the Charge Sheet in P.R.C.No.17 of 2015, on the file of the learned District Munsif cum Judicial Magistrate, Eraniel.

3.The learned Government Advocate(crl.side) appearing for the first respondent would state that the offences are under Sections 294(b), 352 and 506(ii) IPC and therefore would vehemently object



for quashing the said case.

4.The learned counsel for the petitioner would submit that since the petitioner is aged about 54 years, her personal appearance before the trial Court may be dispensed with.

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5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the first respondent and perused the materials available on record. Since no adverse order is going to be passed, notice to the second respondents 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. Considering the facts and circumstances of the case, this Court is not inclined to quash the case in P.R.C.No.17 of 2015, on the file of the learned District Munsif cum Judicial Magistrate, Eraniel. However, considering the fact that the petitioner is aged about 54, her personal appearance before the trial Court is dispensed with, except on the date that the learned Judicial Magistrate insists her presence.

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

Sd/-

Assistant Registrar

// 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

The Inspector of Police,
Eraniel Police Station,
Kanyakumari District.

Copy to:

1.The District Munsif cum Judicial Magistrate,
Eraniel.

2.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

Crl.O.P. (MD) .No.15121 of 2020

and

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23.12.2020

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