



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.21530 of 2016

and

Cr.M.P(MD)No.11053 of 2016

WEB COPY

Anandhavalli
W/o T.P.Ramachandran
District Project Officer,
Integrated Child Development Service Scheme
Now working as District Social Welfare Officer,
Office at K.K.Nagar,
Madurai.

...Petitioner/Accused

Vs.

1.State rep. by
The Sub Inspector of Police
Bazaar Police Station,
Virudunagar
Virudhunagar District.

... Respondent1/Complainant

2.S.Kanagamani

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in respect of C.C. No. 42 of 2013 pending on the file of the Learned Judicial Magistrate, Virudhunagar and quash the same.

For Petitioner: Mr.K.Samidurai

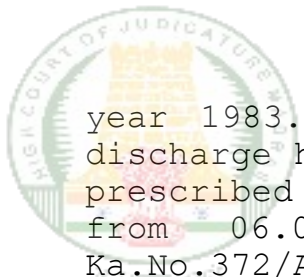
For R-1 : M/s.M.Ananthadevi
Government Advocate (Crl. side)

For R-2 : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C. No. 42 of 2013 pending on the file of the Learned Judicial Magistrate, Virudhunagar.

2. The learned counsel appearing for the petitioner would submit that when the petitioner was working as District Project Officer, Integrated Child Development Service Scheme, R-2 was working as Anganvadi Labour under the administration control of the petitioner herein at Kallayapuram, Virudhunagar District from the



year 1983. He further submitted that since the R-2 failed to discharge her official duty as per norms and allotment of the duties prescribed by her by the department, the petitioner suspended her from 06.01.2009, by the order dated 05.01.2009 in Na. Ka.No.372/A3/08, therefore, R-2 has lodged a complaint before the District Collector, but the District Collector did not take any action on the complaint lodged by R-2 and as such she had written a letter to the petitioner, dated 27.07.2009 stating that she is going to set fire on herself in front of petitioner's office. He further submitted that R-2 also lodged a complaint before the respondent police alleging that, on 26.07.2009 and she along with another person wherein, the petitioner with one henchmen came and abetted her and also threatened her with dire consequences and kidnapped R-2 in the auto, thereafter, on 28.07.2009, she was released by the petitioner herein and on receipt of the same no action was taken, R-2 has filed a petition under Section 156 (3) of Cr.P.C., and the learned Judicial Magistrate No.I, Virudhunagar directed the respondent police to investigate the complaint and file report. He further submitted that the first respondent has conducted a detailed enquiry and found that the complaint lodged by R-2 is false one and accordingly, filed a detailed report before the learned Judicial Magistrate No.I, Virudhunagar on 12.11.2009. Again, aggrieved over the same, R-2 has lodged a private complaint and the learned Magistrate mechanically had taken cognizance and issued summons to the petitioner for the offences under Section 365 & 506(i) of IPC. He further submitted that the respondent police found that the complaint was false one and the same was closed and thereafter, the learned Magistrate had taken cognizance without even conducting enquiry, only on perusal of complaint for the offences under Section 365 & 506(i) of IPC and issued summons therefore, he prayed for quashment of proceedings in C.C. No.42 of 2013 pending on the file of the learned Judicial Magistrate No.I, Virudhunagar.

3. Though notice has been served no one appeared on behalf of R-2.

4. The learned Government Advocate (crl. Side) appearing for the respondent police would submit that based on a complaint the learned Judicial Magistrate No.I, Virudhunagar had directed the first respondent to investigate and file report. Thereafter, the first respondent police has conducted a detailed enquiry and found that the entire allegations made in the complaint are false and filed closure report before the learned Magistrate on 12.11.2009.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl. Side) appearing for the respondent police.

6. It is seen from the records that the petitioner is a sole accused. On the complaint lodged by the R-2 before the learned Judicial Magistrate No.I, Virudhunagar and on receipt of the same,



the learned Magistrate had taken cognizance for the offences punishable under Sections 365 & 506(i) of IPC and issued summons to the petitioner herein. On perusal of records, R-2 was suspended by the petitioner herein by the order dated 05.01.2009 in Na. Ka.No.372/A3/08.. While being so, R-2 has lodged a complaint alleging that on 26.07.2009 the petitioner along with one henchmen kidnapped R-2 and threatened her with dire consequences and thereafter, on 28.07.2009 was released by the petitioner herein. Initially, R-2 has filed a complaint and the same was closed. Aggrieved by the same, the R-2 has filed a complaint before the learned Judicial Magistrate No.I, Virudhunagar, seeking direction under Section 156(3) of Cr.PC. The learned Magistrate directing the first respondent to enquire and file report. Accordingly, the first respondent has conducted a detailed enquiry by examining nine witnesses and found that on 26.07.2009 no such occurrence was took place as alleged by the second respondent herein. Infact, R-2 did not work promptly and as such she was initially suspended from her service and subsequently, she was removed from service by the order, dated 08.07.2009. Itself evidence that R-2 has written a letter to the petitioner stating that if she is not re-inserted she will commit suicide by setting fire infront of the petitioner's office herein. Therefore, the first respondent rightly found that the entire allegations are false and no such occurrence was took place on 26.07.2009. while being so, aggrieved by the said closure report, R-2 has lodged a private complaint and the learned Magistrate without taking any enquiry without perusal of the report submitted by the first respondent, the learned Magistrate had taken cognizance and issued summons to the petitioner. Therefore, the entire proceedings initiated as against the petitioner is nothing, but abuse of process of law and it cannot be sustained as against the petitioner herein. Further, now the petitioner has retired from her service and it may ends of justice. Therefore, the impugned complaint is liable to be quashed.

7. In the result, this Criminal Original Petition is allowed and the proceedings in C.C. No. 42 of 2013 on the file of the Learned Judicial Magistrate, Virudhunagar is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

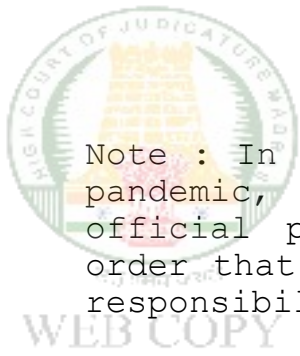
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Sub Assistant Registrar(CS)

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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 Judicial Magistrate,
Virudhunagar.

2.The Sub Inspector of Police
Bazaar Police Station,
Virudhunagar
Virudhunagar District.

+1 CC to M/s.K. SAMIDURAI, Advocate (SR-19978[F] dated 14/10/2020)

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13.10.2020

SJ(CO)
NR (05/11/2020) 4P : 4C