



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE **A.D. JAGADISH CHANDIRA**

Crl.O.P.(MD).No.12364 of 2018

and

Crl.MP(MD)Nos.5601 & 5602 of 2018

WEB COPY

Archana

...Petitioner/Accused No.4

Vs.

1.The State rep by

The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.
(Crime No.9 of 2017)

.... 1st Respondent/Complainant

2.Shybha

.... 2nd Respondent/Defacto
Complainant

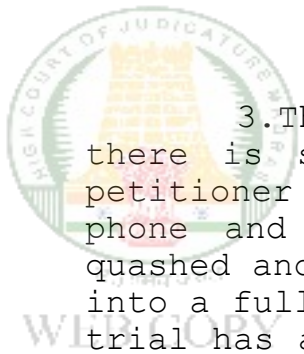
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the Criminal case in C.C.No.122 of 2018 on the file of the learned Judicial Magistrate No.2, Padmanabhapuram, and quash the same as against this petitioner by allowing this Criminal Original Petition.

For Petitioner	: Mr.K.Balasubramani
For R1	: Mr.S.Chandrasekar
	Additional Public Prosecutor
For R2	: Mr.A.Thiruvadikumar

O R D E R

This petition has been filed to quash the proceedings in C.C.No.122 of 2018 on the file of the learned Judicial Magistrate No.2, Padmanabhapuram.

2.The learned counsel appearing for the petitioner would submit that expect the allegation that the petitioner demanded the jewels from the second respondent/defacto complainant through phone, no allegations have been made against her. He further submitted that the petitioner is residing at Coimbatore and she is in no way connected with the alleged allegation of harassing the second respondent/defacto complainant. He further submitted that the respondent police conducted the investigation in a mechanical manner and they filed charge sheet as against the petitioner and hence, he sought for quashment of the proceedings.



3.The learned Additional Public Prosecutor would submit that there is specific allegation as against the petitioner that the petitioner demanded the jewels from the defacto complainant through phone and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has to be gone into a full-fledged trial. Further, he would further submit that the trial has also been commenced and hence, he prays for dismissal of the petitioner.

4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioner prayed the personal appearance of the petitioner before the trial Court, may be dispensed with.

6.Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that she shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7.The petitioner is further directed to give an undertaking in the form of affidavit that she will be duly represented by a counsel on all hearing dates and that the Counsel representing her will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event her presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for her appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in **2001 (4) SCC 667**.

8.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.5601 of 2018 stands closed and Crl.M.P(MD) No.5602 of 2019 stands ordered.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1.The Judicial Magistrate Court No.2,
Padmanabhapuram.

2.The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.BALASUBRAMANI, Advocate (SR-1104[F] dated
09/01/2020)

**Crl.O.P. (MD) .No.12364 of 2018
and
Crl.MP(MD)Nos.5601 & 5602 of 2018
07.01.2020**

VB(03.02.2020) 3P 5C