



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.17789 of 2021

and

CrI.M.P.No. 9758 & 9759 of 2021

R.Jambulingam,
S/o. Ramalingam

... Petitioner

Versus

1. State rep. by
Inspector of Police,
All Women Police Station,
Gingee Police Station,
Villupuram Dt.

2. Prabhavathi,
D/o. Ramasamy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the charge sheet in S.C.No.252 of 2021 on the file of District and Sessions Mahila Court, Villupuram (Crime No.11 of 2020 on the file of 1st respondent), quash the same.

For Petitioner : Mr.S.Doraiswamy

For Respondents : Mr.A.Damodaran,

Addl. Public Prosecutor for R1

ORDER

(This case has been heard through video conference)

The petitioner/A1 in S.C.No.252 of 2021, who is facing trial for offence under Sections 417, 376, 313, 109 I.P.C. r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act filed this quash petition.



2. The contention of the petitioner is that the petitioner and the 2nd respondent/defacto complainant were in love with each other, they were major and matured persons, knowing what is happening. Thereafter, they had some relationship. In the complaint, there is nothing to say that there was false promise to marry by the petitioner and thereafter, they had some physical relationship, and later, the petitioner refused to marry. After registration of F.I.R., 164 statement is clearly improved and other supporting witnesses are not in conformity to the statement of 2nd respondent. The medical evidence are also not in conformity to the statement of 2nd respondent. Love affair and promise, broken marriage is given a criminal colour and the petitioner is forced to undergo ordeal of trial. Hence, he propounded to file this quash petition.

3. The learned Additional Public Prosecutor appearing for 1st respondent would submit that on the other hand, the complaint was received and thereafter, F.I.R. was registered and during investigation, statement of witnesses were recorded, wherein the victim girl L.W.1 was in categorical terms stated the role played by the petitioner and other two persons. Further, he gave a false promise, and on getting promise to marry her, he exploited her physically. Now, he is refusing to marry. She was subjected to medical examination, which is in conformity to the statement of defacto complainant. Further, the accused in this case was also examined. The medical evidence and forensic evidence are in conformity to the case of prosecution. Added to it, the 2nd respondent/defacto complainant appeared before the Judicial Magistrate and given a statement confirming her statement. There are enough materials to proceed against the petitioner. Filing the charge sheet, the lower court on perusal of statement and documents, finding prima facie materials to proceed against the petitioner and taking cognizance of offence, taken the case on file and issued summons. The points raised by the petitioner are factual in nature, which ought to be decided during trial and not in the quash petition.

4. Heard the rival submissions made by learned counsel appearing for petitioner and learned Government Advocate (Criminal Side) appearing on behalf of 1st respondent and perused the records.



5. Considering the submissions, and on perusal of materials, it is seen that in this case, on the complaint of 2nd respondent/defacto complainant, the respondent police registered the F.I.R., completed investigation and filed final report, listing L.W.1 to L.W.15. L.W.1 is the victim girl. L.W. 2, 3, 4 and 5 are friends, and relatives of victim, who confirmed the statement of victim and her relationship with the petitioner. L.W.6 and 7 are observation mahazar witnesses. L.W.8 and 9 are the police personnel, who accompanied the petitioner and victim, and produced them during medical examination. L.W.10, 11, 12 and 13 are Doctors and forensic experts, who had examined the petitioner and victim and gave their reports. L.W.14 is the Judicial Magistrate, who had recorded the statement of victim under Sec.164 of Cr.P.C. This Court finds that there are enough materials to proceed against the petitioner and other two accused. The points raised by the petitioner are factual, which are to be decided only during trial. In view of the same, this Criminal Original Petition is dismissed. It is made clear that any observation is made in this petition is only for dismissal of the above petition and the trial court to proceed without any reference to the above. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (C0)

// True Copy //

Sub Assistant Registrar

rpp/sp

To

1. Inspector of Police,
All Women Police Station,
Gingee Police Station, Villupuram Dt.
2. The Public Prosecutor,
High Court, Madras.
3. The District and Sessions Mahila Court, Villupuram.

+1CC to M/s.S.Doraisamy, Advocate, SR.No. 51838

CRL.O.P.No.17789 of 2021

VSN II(C0)

B.VC (20/10/2021)