



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.11.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.20063 of 2017 and
Crl.M.P.Nos.12088 and 12089 of 2017

1. Kalaiyarasan
 2. Ramamoorthy
 3. Manimegalai
-Petitioners/Accused 1 to 3

-Vs-

1. The State by
The Inspector of Police
Neyveli All Women Police Station
Cuddalore District. ...1st Respondent/Complainant
(Cr.No.2 of 2016)

2. Elakiya ...2nd Respondent/Defacto Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records and quash the charge sheet filed against the petitioners in S.C.No.339 of 2017 pending on the file of Mahila Court, Cuddalore.

For Petitioners ... Mr.K.Gandhi Kumar

For Respondents ... Mr.S.Vinoth Kumar
Govt. Advocate (Crl.side) for R1
No appearance for R2

ORDER

This Criminal Original Petition has been filed to quash the charge sheet filed against the petitioners, who have been arraigned as A1 to A3 in in S.C.No.339 of 2017 pending on the file of Mahila Court, Cuddalore.

2. The crux of the prosecution case is that first petitioner/A1, who is the son of Petitioners 2 and 3/accused 2 and 3 under the false promise of marrying the de facto complainant, had physical relationship with her, as a result of



which she became pregnant and a child was born. Thereafter, the first petitioner/ first accused refused to marry her and when the de facto complainant went to the house of first accused along with the child, A2 and A3, who are mother and father of the first accused, they informed the de facto that the child was not born to their son and have also threatened her, resulting in registration of first information report against petitioners / accused in Crime No.2 of 2016. After investigation, a final report has been filed in S.C.No.339 of 2017 for the offences under Sections 417, 376, 342 & 498A of IPC as against A1 and for the offences under Sections 294(b) and 506(ii) of IPC as against A2 and A3.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) appearing on behalf of the first respondent.

4. The learned counsel appearing for the petitioners mainly contended that the offences under Sections 417, 376, 342 & 498A of IPC could not be attracted as against A1 and there was a clear consensual sexual intercourse between the parties and the same, at no stretch of imagination, will attract offences under Sections 376 and 417 IPC. It is his further contention that as against A2 and A3 except the allegation that they threatened the de facto complainant, no other allegation is made and therefore, continuation of prosecution as against A2 and A3 is abuse of process of law.

5.Per contra, the learned Government Advocate (Crl.side) submitted that whether there was a consent or not is a matter of evidence and the same cannot be gone into at this stage. However, it is fairly submitted that as far as A2 and A3 are concerned, only general allegations have been made.

6.This Court perused the entire materials placed before this Court and is of the view that the final report has been filed roping the entire family members of first petitioner/first accused. The only allegation made against A2 and A3 is that they threatened the de facto complainant and have also stated that the child was not born to their son. No other serious allegations have been made against them. Therefore, mere verbal allegation of threat without any material to show that such threat in fact endangered the life of de facto complainant will not attract the offence under Section 506(i) IPC. The allegation in the complaint is very vague to attract the offence under Section 294(b) IPC as against A2 and A3. In the considered view of this Court, continuation of prosecution as against A2



and A3 is a futile exercise and is only an harassment. However, as far as A1 is concerned, whether there is consent or not is a matter of evidence.

Therefore, this petition is dismissed as against first petitioner/A1 giving liberty to him to raise all his defence before the trial Court. However, since there was no specific allegation as against A2 ad A3, the charge sheet in S.C.No.339 of 2017 pending on the file of Mahila Court, Cuddalore as against A2 and A3 alone is quashed and the trial Court shall expedite the trial and dispose of the main case as against A1 as expeditiously as possible. Consequently, the connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

To

1. The Mahila Court,
Cuddalore.
2. The Inspector of Police,
Neyveli All Women Police Station,
Cuddalore District.
3. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.K.Gandhi Kumar, Advocate Sr.61742

Cr1.O.P.No.20063 of 2017
and
Cr1.M.P.Nos.12088 and 12089 of 2017

gpl[col]
srg 16/12/2021