



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.21518 of 2017

and

CRL.M.P.Nos.12653 &12654 of 2017

Satya
Sub-Inspector of Police,
Maruvathur Police Station
Perambalur District

...Petitioner/Accused

Vs.

Mrs.Kanagavalli

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for records and quash the complaint in C.C.No.153 of 2017, pending trial on the file the learned Judicial Magistrate, Additional Mahila Court, Perambalur.

For Petitioner : Mr.S.Karthikeyan

For Respondent : Mr.C.D.Johnson

ORDER

This Criminal Original Petition has been filed to call for the records and quash the complaint in C.C.No.153 of 2017, pending trial on the file of the learned Judicial Magistrate, Additional Mahila Court, Perambalur.

2. The petitioner has been arrayed as A1 in C.C.No.153 of 2017 for the various offences under Sections 166, 294(b), 323, 354, 384, 506(i) of I.P.C and Section 4 of Tamil Nadu Prohibition of Women Harassment Act pending on the file of the learned Judicial Magistrate Additional Mahila Court, Perambalur.

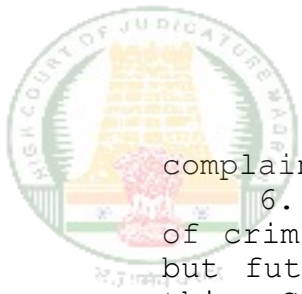
3. The allegation of the defacto complainant is that there were property dispute between the defacto complainant's father Mr.Karunakaran and his brothers vis-a-vis Subramanian, Muthusamy



and Chinnasamy. The said Subramanian and his family members picked up a quarrel with defacto complainant and hence, she lodged a complaint to the respondent police/A1. The said Subramanian and Chinnasamy also locked the said house and Subramanian also gave a complaint to the respondent police/A1. The respondent police came to the said house and unlocked the house forcibly and supported the other side by threatening the said Subramanian. On 26.07.2015, there was a scuffle in between the family members and thereafter, the respondent police came to the house of the defacto complainant and committed atrocities by abusing and molesting the defacto complainant, thereafter, they forcibly took her to the police station. Thereby, they violated the human rights of the defacto complainant. Further, the counter case also registered on 02.08.2015 in Crime No.174 of 2015. Though this private complaint sought to be quashed on the ground that there is no sanction, it is to be noted that obtaining sanction at the initial stage will not arise at all. It depends upon the nature of the case, if the entire offence is no way connected with the discharge of official duties, the question of sanction does not arise at all. Be that as it may, it is stated by the learned counsel on both side, particularly, the counsel for the petitioner submitted that similar nature of the complaint has been filed before the State Human Rights Commission, wherein the evidence has been adduced and found that the allegations has not been established and hence, dismissed the complaint.

4. The learned counsel for the respondent submitted that it is clear case of Police atrocities, however, as State Human Rights Commission has already decided the issue.

5. In view of the above submissions made by both learned counsel, this Court is of the view that the State Human Rights Commission is a fact finding body and it has examined both the defacto complainant and the petitioner, for which, the defacto complainant has also produced the evidence before the State Human Rights Commission as against the present petitioner. On careful consideration, the State Human Rights Commission vide order dated 16.03.2020 has dismissed the complaint holding that the complainant has not established her allegation. It is to be noted that before the State Human Rights Commission, the defacto complainant has filed 14 documents which were marked as Exs.P1 to P14 apart from the oral evidence. Further, the petitioner have also filed 8 documents and the same were marked as Exs.R1 to R8. After analysing the oral and documentary evidence, the State Human Rights Commission has recorded that the complaint is false and dismissed stating that the allegation of the complainant against the petitioner was not proved by the defacto complainant and also failed to establish the fact that the petitioner had violated the human rights of the defacto



complainant .

6. Therefore, this Court is of the view that continuation of criminal prosecution on the similar set of facts is nothing but futile exercise and abuse of process of law. Accordingly, this Criminal Original Petition is Allowed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

msv/nr

To

The Judicial Magistrate,
Additional Mahila Court,
Perambalur.

+lcc to Mr.Karthikeyan, Advocate, S.R.No.64460

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MG (CO)
SU (06/01/2022)