



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl. O.P. No.17254 of 2017

and

Crl. M.P.Nos.10584 and 10585 of 2017

S.Sivakumar Nair
S/o. Samy Nair

....Petitioners/Accused

Versus

1. State represented by
Inspector of Police
All Women Police Station(W 28),
Ambattur, Chennai - 53

2. Vinoliya
W/o.Solomon

....Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.155 of 2017 on the file of Judicial Magistrate, Ambattur and quash the same.

For Petitioners ... Mr.S.Ranjith Kumar

For Respondent ... Mr.S.Vinoth Kumar
Government Advocate
(Crl.side) for R1

... R2 - No Appearance

O R D E R

This petition has been filed to quash the final report filed in C.C.No.155 of 2017 pending on the file of Judicial Magistrate, Ambattur for the offences under Sections 294(b) and 354(A) of IPC read with Section 4 of Tamil Nadu Prohibition of Harrassment of Woman Act, 1998.



2. The case of the prosecution is that the accused, who was running a financial company, lent a sum of Rs.75,000/- to the husband of the de facto complainant by executing a promissory note and the second petitioner has also issued cheque as security for the said loan and misbehaved with the defacto complainant and expected a sexual favour from her, thereby committed the aforesaid offences.

3. The learned counsel appearing for the petitioner mainly contended that this complaint has been lodged with ulterior motive in order to avoid Section 138 of the Negotiable Instruments Act proceedings filed by the petitioner against the husband of the de facto complainant and similarly the defacto complainant's husband also filed a police complaint on 14.10.2016, which is contrary to the present complaint. Therefore, his contention is that the entire complaint is motivated and the continuation of the prosecution is nothing but an abuse of process of law.

4. The learned Government Advocate (Crl.side) appearing for the State submitted that though there are financial transactions, the accused taking advantage of the same, sought a sexual favour from the de facto complainant and there are also materials unearthed during the investigation. The witnesses have also clearly spoken about these facts. Therefore, at this stage the prayer for quashing of the final report cannot be entertained.

5. I perused the entire materials placed before this Court. Merely on the basis of the contention put forth by the learned counsel for petitioner that the very complaint itself is motivated one and the entire prosecution is a sheer abuse of process of law, this Court cannot exercise jurisdiction under Section 482 Cr.P.C to quash the proceedings. At the same time, merely on the basis of the financial transaction and the private complaint having been filed under Section 138 of the Negotiable Instruments Act as against the defacto complainant, cannot presume that the entire allegation unearthed by the prosecution are motivated. Serious allegations have been unearthed as against the petitioner and the same has to be tested in the trial based on the evidence adduced and thereafter, only the trial Court has to appreciate this matter taking note of the previous case filed by the present petitioner.

6. In such view of the matter, at this stage, this Court is not inclined to quash the proceedings and this Criminal Original



Petition is dismissed. However, taking note of the nature of the allegations and final report, personal appearance of the petitioner is dispensed with except for receiving copies and answering the charges u/s.313 Cr.P.C questioning and any other hearing that may be fixed by the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gpa/gba

To

1. The Judicial Magistrate
Ambattur
2. The chief Judicial Magistrate
Thiruvallur.
3. The Inspector of Police
All Women Police Station (W - 28)
Ambattur, Chennai - 53
4. The Public Prosecutor
Madras High Court
Chennai.

+1cc to Mr.S.Ranjith Kumar, Advocate, S.R.No.66740

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NSK 19/01/2022