



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.11.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.19805 of 2017

&

Crl.M.P.Nos.11964 & 11965 of 2017

R.Arivalagan

...Petitioner

Vs

K.Malathi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in P.R.C.No.27 of 2017 on the file of the Judicial Magistrate No.II, Pollachi and quash the same.

For petitioner : Mr.C.Veeraraghavan

For Respondent : No appearance

O R D E R

This petition has been filed to quash the charges in P.R.C.No.27 of 2017 on file by the Judicial Magistrate No.II, Pollachi for the offences under Section 294 (b) of I.P.C. r/w Section 3 (i), (v), (x) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989.

2. It is the contention of the learned counsel for the petitioner that originally the Police have filed F.I.R. and the same has been closed as a mistake of fact. Thereafter, private complaint filed by the defacto complainant has been taken cognizance by the Magistrate for the offences under Section 294 (b) of I.P.C. r/w Section 3 (i), (v), (x) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989. It is his further contention that the learned Magistrate has no power to take cognizance of the offence. Further he contended that absolutely there is contradiction in the statement of the witnesses one in enquiry stage before the learned Magistrate and



in statements recorded under Section 161 of Cr.P.C. before the police. Therefore, the private complaint has to be quashed.

3. This Court is of the view that such contention is not the ground to quash the entire proceedings. Merely because the Sessions Court namely Special Court has been given power to take cognizance directly that will not take away the right in entertaining the private complaint by the learned Magistrate. Even in the offence exclusively triable by the Sessions Court, the learned Magistrate can take cognizance and commit the case to the concerned Court. Therefore, on the above grounds proceedings cannot be quashed.

4. Similarly the contradictions in respect of the statements and evidence also cannot be gone into at this stage. It is a matter of evidence and it has to be tested before the Trial Court. Hence, the proceedings against the petitioners cannot be quashed at this stage. It is well open to the petitioner to raise all his defence before the Trial Court.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

The Judicial Magistrate No.II,
Pollachi.

+1cc to M/s.C.Veeraraghavan, Advocate, S.R.No.62727

+1cc to Mr.P.Saravanan, Advocate, S.R.No.62696

Crl.O.P.No.19805 of 2017 &
Crl.M.P.Nos.11964 & 11965 of 2017

PL (CO)
SU(09/12/2021)