



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 06.07.2021

Delivered on: 27.07.2021

CORAM

THE HONOURABLE **MR.JUSTICE G.ILANGOVA**Crl.O.P. (MD)No.4129 of 2021
and Crl.M.P. (MD)Nos.2275 & 2276 of 20211.D.Geetha
2.D.Palpackiyam
3.D.Ayalraj
4.D.Ayyanar

... Petitioners/Accused Nos. 2,3,4 & 5

Vs.

1.State through
The Inspector of Police,
All Women Police Station,
Srivilliputhur, Virudhunagar District
(In Crime No.10 of 2020) ... Respondent/Complainant2.M.Vijayalakshmi ... 2nd Respondent/Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.5 of 2021 filed by the first respondent in Crime No.10 of 2020 pending on the file of the learned Additional Mahila Court, Srivilliputhur and to quash the same as against the petitioners as the same is devoid of merits and abusing the process of law with regard to the petitioners concerned.

For Petitioners : Mr.C.M.Arumugam

For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R2 : No Appearance

ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.5 of 2021 on the file of the Additional Mahila Court, Srivilliputhur.

2.The case of the prosecution as mentioned in FIR is that the second respondent, who is the defacto complainant, was married to one Murugan on 21.11.2008 and they lived in Kuppanapuram at matrimonial home. The said Murugan, who is A1, was a practicing



Advocate at Srivilliputhur. Later, he got an appointment in Commercial Tax Department as Office Assistant in 2018 and now he is working in Madurai Commercial Tax Office. So because of his employment, he has to stay at Madurai and the defacto complainant used to visit her husband at Madurai.

3.Later, A1 started insisting the defacto complainant not to come to Madurai. So the defacto complainant entertained some doubt. On enquiry, it came to her knowledge that A1 was having illegal affair with the first petitioner Geetha. Later, it came to know that A1 got married the first petitioner and he was not interested in the marital life with the second respondent. So she was physically harassed.

4.So, because of the relationship between A1 and the first petitioner, a male child was born to them. Along with her relatives, the first petitioner scolded the defacto complainant in abusive words and criminally intimidated her. With these allegations, she preferred a complaint, which was registered in Crime No.10 of 2020 for the offence under Sections 294(b), 323, 354, 506(2), 406, 420, 494 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

5.An investigation was undertaken on the basis of the complaint, materials are collected and statements of the witness were recorded and finally, charges have been laid, which was taken on file in C.C.No.5 of 2020 by the Additional Mahila Court Srivilliputhur. Pending trial, this petition came to be filed by the petitioners, who are arrayed as A2 to A5 in the final report, mainly on the ground that none of the allegations mentioned in the final report attract any of the offences against these petitioners.

6.It was a matrimonial dispute between the husband and wife and these petitioners no way involved. The first petitioner is serving in the Commercial Tax Department and she has no relationship with A1. The other petitioners are mother and brother of the first petitioner and they are no way connected with the occurrence.

7.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent. Even though notice served and the name of the second respondent printed in the cause list, none appeared on behalf of the second respondent.

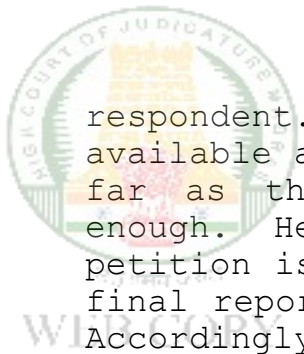
8.The contention of the learned counsel for the petitioners is that there is contradiction between FIR and the statement given by the defacto complainant in the course of investigation under Section 161 Cr.P.C., before the Investigating Officer, when some improvement had been made. It is further submitted by the learned counsel for the petitioners that the defacto complainant further stated that on

<https://hmc.mca.gov.in/hmc/mca/>

complaint against the first petitioner to the effect that she got employment in the Department by giving a false information that she was a destitute widow. Later, it came to notice that it is pure mistake of facts. So the defacto complainant stated that out of anger she had given a wrong complaint against the first petitioner. According to the learned counsel for the petitioners, when this further statement made by the defacto complainant is wrong, the other allegations made against the petitioner in the final report are baseless.

9.No doubt that in FIR the defacto complainant has given a particular that the first petitioner got a job by suppressing the true facts. But later, it came to her notice that it is wrong. However, this mistaken of misconception of facts or misunderstanding of events by the defacto complainant will not had to the effect of the complete erasion or making her all other allegations baseless. So such sort of contention cannot be raised. More over, it is fairly admitted by the second respondent during the course of investigation that it was wrong information. So a wrong information has been given in FIR. When there is such a fair admission on the part of the second respondent, the contention that her entire case must be doubted, cannot be accepted at this stage. The veracity of her statement and the complaint can be tested only during the course of trial. So apart from this mistake, I find no other misinformation in her complaint or statement. The specific allegation to the effect that A1 married the first petitioner illegally and out of marriage, a male child has also been born to them. There is specific allegation that all the accused joint hands and abused the defacto complainant in filthy language and also criminally intimidated her. The specific allegations against the first petitioner to the effect that she along with A1 assaulted the defacto complainant and her modesty was also outraged. She was also criminally intimidated by A1 and A2. So against the first petitioner, specific allegations are available. So in respect of other petitioners, it is seen that no specific allegations are available.

10.As mentioned earlier, due to misconception of fact, the allegation has been made to the effect that this petitioner by giving a false information, the first petitioner obtained a job, later, it came to be known that it is false. So a complaint was given in respect of this cheating incident, which was registered in C.S.R.No.188 of 2020. In pursuance of the same, on 17.06.2020 at about 08.00 pm., the petitioners 2 to 4 came to her house and abused her in filthy language and also criminally intimidated her. As mentioned earlier, the allegation of cheating turns out to be false. So this averment and allegation against the petitioners 2 to 4 will turn out to be false. Since the main allegation was found to be false, subsequent allegations can be construed as false one. It is seen that due to the enmity with the first petitioner, other petitioners have been implicated in the offence by the second



respondent. Therefore, it is clear that enough material is available against the first petitioner to proceed with the trial. So far as the other petitioners are concerned, materials are not enough. Hence, in so far as the first petitioner is concerned, this petition is dismissed and she is directed to face the trial and the final report pending against the petitioners 2 to 4 stands quashed. Accordingly, this criminal original petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Additional Mahila Court, Srivilliputhur

2.The Inspector of Police,
All Women Police Station,
Srivilliputhur,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-24121[F] dated 28/07/2021)
CrI.O.P. (MD)No.4129 of 2021
27.07.2021

MGJ(09.08.2021) 4P 5C