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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.11.2021**

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl O.P.(MD)No.5623 of 2021

and

Crl M.P.(MD)Nos.3222 & 3223 of 2021

Sumathi

... Petitioner/
Sole Accused

Vs.

1.State represented by
The Inspector of Police,
Seiythunganallur Police Station,
Thoothukudi District.
(Crime No. 252 of 2015)

... 1st Respondent/
Complainant

2.Indira Gandhi,
W/o.Ramakrishnan,
Headmistress,
Karungulam Panchayat Union Primary School,
Kalvai Village,
Karungulam Taluk,
Thoothukudi District.

... 2nd Respondent/
Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in S.C. No.127 of 2020 on the file of the Learned II Additional District & Sessions Judge, Thoothukudi, Thoothukudi District and quash the proceedings as against the Petitioner herein.

For Petitioner : Mr.K.Veilmuthu

For Respondents : Mr.T.Senthil Kumar

Additional Public Prosecutor for R1
No Appearance for R2

ORDER

The petitioner is facing trial in S.C.No.127 of 2020 on the file of No.II Additional District and Sessions Judge, Thoothukudi District.

2. The second respondent herein is the de-facto complainant.

<https://hcservices.courts.gov.in/hcservices/>
The second respondent was working as a Headmistress in Karungulam



Panchayat Union Primary School, Kalvai during the year 2015. The petitioner was also working as a teacher in the said school. On 11.11.2015 about 9 a.m., the petitioner is said to have given an application for leave. Thereafter, the petitioner left the school. From the petitioner's class room, smoke was bellowing out and some school records were also burnt. In this regard, Crime No.252 of 2015 was registered on the file of the first respondent. The first respondent investigated the matter and filed the final report against the petitioner. Cognizance was taken for the offence under Section 436 of IPC. The case was committed to the Sessions Court. At this stage, this Criminal Original Petition has been filed for quashing this impugned proceedings.

3. Heard the learned counsel on either side.

4. The petitioner was also departmentally proceeded against Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. After a detailed enquiry, vide order dated 24.03.2020 in Na.Ka.No.3707/22/2018, the disciplinary authority namely District Educational Officer, Thoothukudi, came to the conclusion that charges framed against the petitioner have not been proved. Finally, the departmental proceedings were closed and the period of suspension was also duly regularized.

5. I went through the contents of the enquiry report. It has been stated therein that the petitioner's daughter was given in marriage to the nephew of one colleague namely, Anbuselvan. The de-facto complainant is said to have facilitated the said alliance. Later, misunderstanding arose and the relationship between petitioner and the de-facto complainant came under strain. Even in the FIR as well as in the final report, the strain in the relationship between the two has been mentioned. The Disciplinary Authority after considering all the circumstances came to the conclusion that the petitioner is innocent.

6. Though the de-facto complainant has been served and her name is also printed in the cause list, she has not chosen to enter appearance.

7. The learned counsel for the petitioner has relied on the decision reported in **(2020) 9 SCC 636 (Ashoo Surendranath Tewari V.s Deputy Superintendent of Police, EOW, CBI and Another)**. The Hon'ble Supreme Court in the said decision held that if the department had exonerated the accused on merits and the chances of conviction appear to be bleak, that would be a ground for quashing. In the present case also the petitioner was exonerated only on merits. Her chance of being convicted is also bleak. Continuation of the impugned prosecution would only result in wastage of judicial time. The impugned proceeding stands quashed.



This Criminal Original Petition is allowed, accordingly.
Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

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/ /2021

Sub Assistant Registrar (CS)

mga/csm

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 II Additional District & Sessions Judge,
Thoothukudi,
Thoothukudi District.

2.The Inspector of Police,
Seiythunganallur Police Station,
Thoothukudi District.

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

+1 CC to M/s.K.VEILMUTHU, Advocate (SR-34921[F] dated 18/11/2021)

**Crl O.P. (MD)No.5623 of 2021
and
Crl M.P. (MD)Nos.3222 & 3223 of 2021
17.11.2021**

TSK (CO)
SB(30.11.2021) 3P 5C