



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

CORAM:

WEB COPY THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.O.P.No.334 of 2019

and

Cr1.M.P.No.204 of 2019

Mrs. Suguna
Now Serving as
The Inspector of Police,
Voimedu Police Station,
Vedharanayam Sub-Division,
Nagapattinam District.

...Petitioner

Vs.

1. The State by
The Sub-Inspector of Police,
Reddiarpalayam Police Station,
Puducherry.

2. Pari
S/o. Haridass

...Respondents

PRAYER: Criminal Original petition has been filed under Section 482 of Cr.P.C, prayed to call for the records and quash the FIR registered in Crime No.79 of 2018 on the file of the first respondent police.

For Petitioners : Mr.K.Sampath Kumar
For Respondents : Mr.P.Rajsharath
for V.Balamurugane
Public Prosecutor(Pondicherry) for R1
Mr.N.Manokaran
for Mr.P. Krishnan for R2

ORDER

This Criminal Original Petition has been filed to quash the FIR registered in Crime No.79 of 2018 on the file of the first respondent police.

2. The learned Counsel for the Petitioner submitted that the Petitioner is the first accused in Crime No.79 of 2018 on the file of the Reddiyar Palayam Police Station, Puducherry. As per the contents of the complaint, the de-facto complainant, who



is the Second Respondent in this petition, had lodged the complaint before the Reddiyar Palayam Police Station for the alleged offences committed against him by the Petitioner herein/first accused when she was serving as Sub Inspector of Police in All Women Police Station at Sirkazhi, Nagappattinam District. In the case filed against the Second Respondent by his brother's wife, the Petitioner herein as Sub Inspector of Police, All Woman Police Station, Sirkazhi, had on the basis of the bona fide complaint, registered First Information Report in the year 2012. Subsequently, after six years, as an after-thought and as a counter-blast, this case has been registered at Puducherry against a serving Police Officer in Sirkazhi All Women Police Station, Nagapattinam District in Tamil Nadu. He further submitted that no prior sanction was obtained to prosecute the serving official who discharged her duties. Therefore, he seeks to quash the FIR registered against the Petitioner by the Puducherry Police.

3.As per the submission of the Second Respondent/defacto complainant, the Second Respondent is the brother of the husband of A-2 and Bharathi/A-2 is married to the brother of the Second Respondent/defacto complainant. A-1 is the Inspector of Police, All Woman Police Station, Seerkazhi. A-1 and A-2 are close friends and classmates. A-2 left the matrimonial home at Pondicherry. In the course of matrimonial life, A-2 had two children and after sometime in October, 2011 A-2 left the matrimonial home to her mother's place at Seerkazhi. Thereafter, there was a mediation by the elders. On the outcome of mediation, A-2 came back to matrimonial home for reunion along with A-1. After living the matrimonial home, for sometime, again she left from her matrimonial home along with her belongings on 22.09.2012. On 24.09.2012, she preferred a complaint before the All Woman Police Station at Seerkazhi. Accordingly, All Woman Police Station served summons to the Second Respondent/defacto complainant and his family members directing them to appear before A-1 on 26.09.2012. Suspecting foul play, the Second Respondent/defacto complainant moved Anticipatory Bail before the learned Principal Sessions Judge, Nagapattinam on 28.09.2012. Based on the reply by the learned Public Prosecutor before the learned Principal Sessions Judge that FIR had not been registered, the petition for Anticipatory Bail was dismissed on 28.09.2012. On the next day i.e., on 29.09.2012, A-1 had registered FIR in Cr.No.10 of 2012 on the file of the All Woman Police Station, Seerkazhi. In the FIR itself, it is mentioned that the alleged occurrence took place 100 kms away from the matrimonial home viz., Roja Nagar, Pondicherry.



4. As per the submission of the learned counsel for the Second Respondent/defacto complainant, if at all the complaint of the A-2 is to be believed as bonafide complaint, the territorial jurisdiction is attracted to Tiruvenkadu which is hardly 200 metres away from the residence of the matrimonial home. But, A-2 purposely preferred the complaint to A-1. A-1 purposely to help her friend, had registered the FIR without jurisdiction as A-1 and A-2 are friends and classmates. After registration of the FIR, on 27.09.2012 some persons trespassed into the house of the Second Respondent/defacto complainant with A-1 and A-2 and two daughters of the defacto complainant were taken away in a TATA Sumo car and the defacto complainant also taken away. The father of the defacto complainant was also assaulted and manhandled. The wife, two daughters and parents of the defacto complainant were manhandled and all of them were taken to Seerkazhi and taken photograph in the presence of the Police with two daughters and the defacto complainant was disrobed and remained with underwear in the Police Station. The learned counsel for the Second Respondent/defacto complainant would further submits that imagine the plight of the defacto complainant who has nothing to do with the matrimonial dispute between the respondent's brother and his wife who was disrobed in the presence of his daughters, wife, parents in the Police Station what type of agony he would have experienced? Further the learned counsel for the Second Respondent/defacto complainant submits that the defacto complainant was released on bail on 19.10.2012.

5. As per the submission of the learned counsel for the Second Respondent/defacto complainant, the husband of A-2 was employed at Chennai. A-1 and A-2 came all the way to Chennai and served copies to the employer of the husband of A-2. They also prevailed upon A-2 to terminate the services of the husband of A-2 from service.

6. The learned counsel for the Second Respondent/defacto complainant further submits that the defacto complainant had sent complaints to the Superintendent of Police, Nagapattinam on 16.12.2012 and no action was taken. While so, again A-1 and her subordinates came to the house of the Second Respondent/defacto complainant on 27.10.2013 at 10.00 a.m. and at that time, neither the defacto complainant nor his wife was present in their home, only their minor daughters were there. A-1 had taken photographs of the minor children along with two Police Constables. On 24.11.2014, the Second Respondent/defacto complainant given a complaint to the President of India. It was referred to the Superintendent of Police, Pondicherry (South).



7. On the direction of the Superintendent of Police, Pondicherry (South), enquiry was conducted in the Reddiyarpalayam Police Station. All the persons involved in the case were summoned. During the enquiry only, the Second Respondent/defacto complainant came to know that A-1 and A-2 were classmates and close friends. The enquiry report was submitted to the Superintendent of Police, Pondicherry (South). Therefore, A-1 had lend her helping hand to A-2, thereby A-1 involved herself in this case. Based on the occurrence, the Second Respondent had preferred the complaint to the All Woman Commission, Pondicherry on 19.01.2015 and also to the Superintendent of Police, Nagapattinam on 30.05.2015. However, no action was taken. Therefore, the Second Respondent/defacto complainant did not have any other choice than to approach the Court of the learned Judicial Magistrate, Pondicherry by preferring the complaint under Section 156 (3) of Cr.P.C., Accordingly, the learned Judicial Magistrate had, after recording the sworn statement of the complainant, issued direction to the jurisdictional Police Station to register the FIR. After registration of FIR, the Accused herein had moved this Court with this petition.

8. Crl.M.P filed by the Second Respondent/defacto complaint was pending on the file of the learned Judicial Magistrate without any developments. Therefore, the Second Respondent/defacto complainant was forced to move this Court in Crl.O.P. No.1929 of 2018 seeking direction to the learned Judicial Magistrate, Pondicherry. Accordingly, as per the Order in Crl.O.P.No.1929 of 2018 dated 24.01.2018, the learned Judicial Magistrate was directed to pass appropriate Orders in Crl.M.P.No.2573 of 2018. Only then, the learned Judicial Magistrate had recorded the sworn statement of the Second Respondent/defacto complainant and issued direction directing the jurisdictional Police to register the FIR.

9. After this much time, only the FIR had been registered. Therefore, the contention of the learned counsel for the Petitioner that for the occurrence of the year 2012, FIR had been registered in the year 2018 does not hold good.

10. The learned counsel for the Second Respondent/defacto complainant submits that as per the observation of the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajanlal, there were directions to the trial Court as well as High Court regarding the quashing of FIR and one of the observations was that, quashing of FIR, is akin to killing a new born child.



11. The learned Public Prosecutor (Pondichery) was also heard. As per his submission, the learned Judicial Magistrate had issued directions based on which FIR was registered. However, investigation could not be proceeded as there was an interim stay granted by this Court.

12. The submission of the learned counsel for the Petitioner that sanction was not obtained before registering FIR does not hold good. If the Investigation Officer proceeds with the investigation and there is sufficient materials to lay the charge sheet, at the time of laying charge sheet, the Investigation Officer is duty bound to obtain sanction from the appropriate Authority. In the present case, Investigation Officer need not seek sanction. The learned Public Prosecutor also further submits that if the stay is vacated, they are ready to proceed with the Investigation.

13. Considering the submission of both parties, it is found that quashing of FIR will not be found reasonable at this stage and considering the continuous occurrence complained to by the learned counsel for the Second Respondent/defacto complainant before this Court. The material evidence had to be collected by the Investigation Officer, the Investigation Officer is within his/her right to collect sufficient materials and thereafter chargesheet to be filed. As rightly pointed out by the learned counsel for the Second Respondent/defacto complainant that quashing of FIR is like killing the new born child. Therefore, considering the facts of this case, it is not a fit case for quashing the FIR. The Investigation Officer shall proceed with the investigation without being influenced by any of the observations made in this Order.

With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To.

1. The Sub-Inspector of Police,
Reddiyarpalayam Police Station,
Puducherry.

2. The Public Prosecutor,
High Court, Chennai.

+1 CC to Mr.K.Sampath Kumar, advocate sr 22120.

+1 CC to Mr.P. Krishnan, Advocate sr 22322.

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PA(CO)
SP(13/04/2022)