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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.06.2022
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.Nos.3328 of 2020 & 18922 of 2019
and
Crl.MP.Nos.1953 & 1954 of 2020

D.Baskaran .. Petitioner in Crl.O.P.No.3328 of 2020
Sridhar .. Petitioner in Crl.O.P.No.18922 of 2019

Versus

1.The Inspector of Police,
W-25 All Women Police Station,
T.Nagar, Chennai - 600 017.

2.Amala Paul .. Respondents in both cases

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records in connection with C.C.No.12310/2018, pending on the file of the learned XVII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioners : Mr.Venkatesh Mahadevan
(In Crl.O.P.No.18922 of 2019)
Mr.S.Sarath Chandaran
(In Crl.O.P.No.18922 of 2019)

For Respondents : Mr.A.Gopinathn (for R1)
Government Advocate (Crl.Side)
R2: NA-(Both Cases)

COMMON ORDER

These Criminal Original Petitions have been filed to quash the relating to proceedings pending in C.C.No. 12310/2018 on the file of the learned XVII Metropolitan Magistrate Court, Saidapet, Chennai

2. The case of the prosecution is that the de-facto complainant, Amala Paul, an actress by profession, was rehearsing dance movements for a song to be performed in an event at Malaysia titled 'Dazzling Thamizhachi' on 03.02.2018, in the dance Academy, namely Manjaas Dance Training Academy, owned by A-3, Sridhar, who is a Cine Choreographer, on 31.01.2018. While that being so, A-2 Alageswaran allegedly being a friend of A-3 Sridhar, on coming to know that the de-facto complainant was rehearsing in the Academy of A-3 is alleged to have visited the said dance Academy and is alleged to have stated to the de-facto complainant that one Rahman in Malaysia wanted to have a private dinner with the de-facto complainant after the above said event was over. When the de-



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facto complainant had informed the said A-2 that the organizers for the event had already arranged for a dinner after the event, the said A-2 is alleged to have told the de-facto complainant that the said Rahman in Malaysia wanted to take the de-facto complainant alone for a private dinner and also asked how much the de-facto complainant would charge for the same. The said A-2 is also alleged to have informed the de-facto complainant that Rahman from Malaysia had informed him to just ask her for the private dinner and if she says no it is okay. The de-facto complainant was angered by such a demand of A-2 and when she told him that she is going to lodge a police complaint, A-2 is alleged to have apologized to her, after which the de-facto complainant pretended to have forgiven him and continued conversing with him and also recorded his voice wherein A-2 is believed to have mentioned the name of one Baskar from Guindy and Ibrahim from Malaysia. The de-facto complainant had stated in her complaint that she has shared the voice recording between herself and A-2 and also the video footage from the CCTV available in the Academy with the police.

3. There are totally four accused in which the petitioners are arrayed as A3 and A4. Learned counsel for the 4th accused submitted that even as per the case of the prosecution his presence was not there and no overthought is against A4. By mistakenly he has also been impleaded as an accused. Whereas on perusal of statement recorded under Section 161, Cr.P.C., revealed that all accused having specific overtact and there are material to attract offence under Sections 354A(2), 509, 34 of IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Woman Act, 2002.

4. In so far as A3 is concerned, according to the petitioner, A3 and the de-facto complainant are working together for many years. So far, no single allegation is made by the de-facto complainant. While, the de-facto complainant was approached by the A3/Sridhar from Malaysia to participate in the 'Dazzling Thamizhachi' event schedule on 03.02.2018, the de-facto complainant agreed for the said event and to rent out for rehearsal from 27.01.2018 for rent. The said Manjaas Dance Company appointed Ibrahim, who asked the first accused and the fourth accused to monitor rehearsal and to work for the show. In fact, the 1st accused and 4th accused already introduced them to the de-facto complainant and also taken photographs with her.

5. Therefore, there are material to proceed as against the the accused for the offences under Section articulate as for the offences under Section 354A(2), 509, 34 of IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Woman Act, 2002. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement



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of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in Crl.A.No.1572 of 2019 dated 17.10.2019 in the case of Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

7. Further the Hon'ble Supreme Court of India also held in the order dated 02.12.2019 in Crl.A.No.1817 of 2019 in the case of M.Jayanthi Vs. K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not



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embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

8. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.12310/2018 on the file of the learned XVII Metropolitan Magistrate Court, Saidapet, Chennai. The Trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this Order.

9. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cda/dhk

To

- 1.The XVII Metropolitan Magistrate Court, Saidapet,Chennai.
- 2.The Chief Metropolitan Magistrate,Chennai
- 3.The Inspector of Police,
W-25 All Women Police Station,
T.Nagar, Chennai - 600 017.
- 4.The Public Prosecutor,Madras High Court, Chennai.

CRL.O.P.Nos.3328 of 2020 & 18922 of 2019