



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 29.04.2022
Pronounced On : 13.06.2022

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.3541 of 2019
and
Crl.M.P.No.2251 of 2019

1. Prabha @ Prabakaran
2. Jayakumar
3. Kalaiselvan
4. Manivannan
5. Kutti @ Devendran @ Sureshbabu
6. Babu @ Kirubanantham

... Petitioners / Accused 1 to 6

Vs.

Jayanthi

... Respondent / Complainant

PRAYER: Criminal Original petition has been filed under Section 482 of Cr.P.C, prayed to call for the records in C.C.No.480 of 2017 on the file of the learned Judicial Magistrate No.1, Vellore and quash the same.

For Petitioners : Mr.C.Anbu for
M/s.M.R.Thangavel
For Respondents : No Appearance

ORDER

The Petitioners herein had filed this Petition stating that the Petitioners 1 to 6 had been arrayed as Accused 1 to 6 in private complaint preferred by the Respondent/Complainant in C.C.No.480 of 2017 on the file of the learned Judicial Magistrate - I, Vellore seeking this Court to exercise power under Section 482 of Cr.P.C., to quash the same.



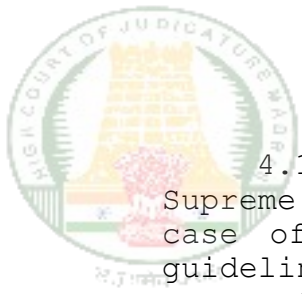
2. It is the contention of the learned Counsel for the Petitioners that for the alleged offence that had taken place on 12.08.2017, the Respondent herein had preferred a complaint to the Ariyur Police Station. Based on the Complaint, the Sub Inspector of Police, Ariyur Police Station had registered an FIR in Cr.No.174 of 2017 under Sections 294 (b), 323 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002 and they had laid the final report of the investigation before the Court of the learned Judicial Magistrate - I, Vellore, which was taken cognizance by the learned Judicial Magistrate. After taking cognizance of the final report laid by the Ariyur Police by the learned Judicial Magistrate -I, Vellore, the Respondent herein had also preferred a private complaint wherein she had arrayed the Petitioners herein 1 to 6 as Accused.

2.1. In support of his contention, the learned Counsel for the Petitioners had relied on the statements preferred to the Investigation Officer by the witnesses wherein there had not been any incriminating statement against the Petitioners herein. Only with an ulterior motive, she had filed the private complaint. It is an abuse of process of Court.

2.2. Also, it is the contention of the learned Counsel for the Petitioners that for the same offence, the Accused cannot be subjected to criminal trial repeatedly under the principles of double jeopardy.

3. The learned Counsel for the Petitioners had already submitted his arguments on 21.04.2022 and the case was adjourned to 26.04.2022 for hearing the arguments of the learned Counsel for the Respondent. In spite of the name of the learned Counsel for the Respondent being printed in the cause list, the case was repeatedly adjourned till 29.04.2022 by 2.15 p.m., none of the Counsels appeared.

4. Therefore, based on the arguments of the learned Counsel for the Petitioners and the materials placed before this Court by the learned Counsel for the Petitioners, relying on the certified copies of the FIR, the statement under Section 161 of Cr.P.C., and the final report laid by the Investigation Officer before the Court of the learned Judicial Magistrate - 1, Vellore, this Court arrives at a just conclusion, what had been raised by the Petitioners herein is found justified. That is why, in spite of the fact that the name of the learned Counsel for the Respondent was printed in the cause list, none of them appeared in spite of two times, after the argument of the learned Counsel for the Petitioners.



4.1. Even though in the reported ruling of the Hon'ble Supreme Court in 1992 Supp (1) SCC 335:1992 SCC (cri) 426 in the case of State of Haryana Vs. Bhajanlal and another wherein guidelines issued to the High Court that without hearing the arguments of the Complainant, the Court shall not exercise powers under Section 482 of Cr.P.C., the proceedings cannot be quashed. It will not hold good regarding this particular case. Therefore, the criminal complaint preferred by the Respondent/Defacto Complainant for the same cause of action in spite of the fact that already final report laid by the Investigation Officer is pending trial before the learned Judicial Magistrate - I, Vellore, this Court need not grant a further adjournment. Therefore, the private complaint preferred by the Complainant/Respondent herein for the same cause of action, another criminal complaint filed in C.C.No.480 of 2017 on the file of the learned Judicial Magistrate - I, is quashed. The learned Judicial Magistrate - I, Vellore is directed to proceed with the case filed based on the final report of the investigation in Cr.No.174 of 2017 within a reasonable period of three months from the date of receipt of a copy of this order or from the date of uploading of this order on the website of this Court. The ruling cited by the learned Counsel for the Petitioners is appreciated. Hence, the case against the Petitioners is liable to be quashed.

In the result, this Criminal Original Petition is allowed.

The case in C.C.No.480 of 2017 on the file of the learned Judicial Magistrate No.1, Vellore is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dh

To.

1. The Judicial Magistrate No.1,
Vellore.

2. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.C.Anbu, Advocate, S.R.No.34429

Cr1.O.P.No.3541 of 2019

SSD[col]
NSK/07/07/2022