



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.15488 of 2018 and
Crl.M.P.Nos.7882 and 7883 of 2018

1.Chidambaram Sathyan
2.Achu @ Vignesh Navin ...Petitioners/A1 and A2

Versus

1.State rep by its
The Inspector of Police
All Women's Police Station,
Thudiyaloor, Coimbatore-34. ...1st Respondent/Complainant
Crime No.16/2015

2.Swarnalatha ...2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records comprised in C.C.No.267 of 2017 pending on the file of learned District Munsiff-cum-Judicial Magistrate Court at Mettupalayam and quash the same.

For Petitioners: Ms.Vimal B.Crimson

For Respondents: Mr.R.Kishore Kumar for R1
Government Advocate(Crl.side)
R2- No appearance

O R D E R

This Criminal Original Petition has been filed to call for the records comprised in C.C.No.267 of 2017 pending on the file of learned District Munsiff-cum-Judicial Magistrate Court at Mettupalayam and quash the same.

2. Based on the complaint lodged by the defacto complainant, who is the wife of A1/ first petitioner herein, the final report has been filed. The main allegation is that after marriage, A1 started suspecting the character of the defacto complainant and



caused harassment. Besides, he has also suspected the defacto complainant along with her male friends in the college. Thereafter, on 31.05.2015, A1 along with A2 went to the house of the defacto complainant and abused the defacto complainant verbally before the family members of the defacto complainant and thereby, caused harassment to her.

3. The learned counsel for the petitioners mainly contended that the entire allegation is targeted only against the husband/A1 of the defacto complainant and the 2nd petitioner herein was roped into the criminal prosecution merely because, he was the brother of A1. If the entire allegation in the final report is taken as face value, the same would not constitute any offence against the 2nd petitioner herein. Hence, he prays to quash the proceedings in C.C.No.267 of 2017 pending on the file of learned District Munsiff-cum-Judicial Magistrate Court at Mettupalayam against 2nd petitioner herein.

4. Heard the learned Government Advocate(crl.side) appearing for the 1st respondent and perused the materials available on record against A1 and A2.

5. This Court has perused the entire materials available on record. It is to be noted that the defacto complainant is the wife of A1. The entire statements of the witnesses recorded during the investigation, is mainly targeted only against the husband of the defacto complainant/ A1. The husband of the defacto complainant is said to have caused the alleged cruelty and he has also suspected the fidelity of the defacto complainant. Except that, the alleged occurrence which is said to have taken place on 31.05.2015, pertains to A2 accompanying A1 to the house of the defacto complainant, wherein A1 suspected the fidelity of the defacto complainant and caused verbal harassment before the family members of the defacto complainant. If the entire allegation in the final report is taken as face value, the same would not constitute any offence against the 2nd petitioner herein. Further, no other allegation whatsoever has been made against A2 in this regard for causing any cruelty against the defacto complainant. The only allegation is that, A2 has accompanied the husband of the defacto complainant on that particular day i.e. on the birthday of the child and A1 is said to have abused his wife. Therefore, if mere accompanying a family member is taken as proof, that would not constitute any offence against the 2nd petitioner herein.

6. Considering the nature of the allegation made and it is mainly targeted against the husband/A1 by his wife/defacto



complainant and roping the family members for some other reasons is nothing but abuse of process of law. In view of the same, the continuation of the prosecution against the 2nd petitioner/A2 is a clear case of harassment and this Court will not exercise its jurisdiction under Section 482 of Cr.P.C. Hence, the proceedings against the 2nd petitioner/A2 alone is quashed. Accordingly, this Criminal Original Petition is partly Allowed. Consequently, connected miscellaneous petitions are closed. Further, the Trial Court is directed to proceed with the trial as against A1 and dispose of the case as expeditiously as possible.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

msv/nr
To

- 1.The District Munsiff-cum-Judicial Magistrate Court,
Mettupalayam.
- 2.The Inspector of Police
All Women's Police Station,
Thudiyaloor, Coimbatore-34.
- 3.The Public Prosecutor,
High Court, Madras.

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srg 10/02/2022