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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.19426 of 2018

&

CRL.M.P.No.10278 of 2018

Kirubaharan

... Petitioner/Accused

Versus

1. The State Rep by
Inspector of Police,
Vadavalli Police Station,
Coimbatore District.

2. Vengadesh

... Respondents/Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 Cr.P.C., to call for the entire records pursuant to the Crime No.187 of 2018 pending investigation on the file of the respondent police and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.A.Damodaran
No.1 Additional Public Prosecutor.

O R D E R

The Criminal Original Petition has been filed to call for the entire records pursuant to the Crime No.187 of 2018 pending investigation on the file of the respondent police and quash the same.

2.This Court by an order dated 08.02.2022 passed the following order:

"The petitioner, who is the accused in Crime No.187 of 2018 for offence under Section 66A of the Information Technology Act, 2000, has filed this quash application.



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2.The gist of the compliant is that the defacto complainant is working as Assistant Professor in Anna University, Coimbatore. The petitioner former Ph.D student and the defacto complainant was guide to him. The petitioner had given a false complaint against the defacto complainant to the authorities as though the defacto complaint received Rs.10,29,780/- from the petitioner by deceitful means, petitioner brought Anti Social Elements to the office as well as to the native place of defacto complainant. Further, he threatened and blackmailed defacto complainant. One of the committee members was also portrayed in bad taste, abused these messages were posted in social media.

3.The contention of the learned counsel for the petitioner is that the Apex Court in the case of Shreya Singhal Vs. Union of India reported in 2015 (5) SCC 1 " had struck down Section 66A of the Information Technology Act. He further submits that after the judgment dated 24.03.2015, Section 66A of I.T.Act has become non-est in law and the respondent police registered the case under Section 66A, which is not sustainable. He further submits that admittedly, in this case, the complaint was registered on 22.07.2018 in Crime No.187 of 2018.

4.The learned Additional Public Prosecutor produced an alteration report dated 22.07.2018. After the registration of FIR, the offence under Sections 294(b) and 506(i) IPC included and investigation is pending.

5.The learned counsel for the defacto complainant submits that from the reading of the petitioner's complaint, offences under Sections 294(b) & 506(i) IPC is made out though the FIR has been registered under Section 66A of I.T.Act. After enquiry, it was altered to 294(b) & 506(i) IPC, which are cognizable and the respondent police is empowered to proceed with the investigation.

6.Further, the Additional Public Prosecutor submits that as regards the



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quashing of provision 66A of I.T.Act, a letter No.21021/46/2016-IS-II/M dated 14.07.2021 was received.

7. This reference causes serious doubt on the mind of this Court whether this report could have been made ready on 22.07.2018. Further, the Additional Public Prosecutor to produce the copy of the Home Ministry letter dated 14.07.2021.

8.To get clarification, the Additional Public Prosecutor seeks small accommodation. Post the matter on 10.02.2022"

3.In continuation to the order dated 08.02.2022, the Additional Public Prosecutor submits that the case has been closed as " Mistake of Facts" in RCS/No.M5.02.2022 dated 12.02.2022. The RCS notice has been served to the 2nd respondent /defacto complainant and also produced the RCS notice with the signature of the defacto complainant.

4.The learned counsel for the second respondent/defacto complainant submits that apart from the offence under Section 66A of the Information Technology Act, 2000, there are other materials to proceed against the petitioner. The second respondent/defacto complainant may be given liberty to agitate the matter in the manner known to Law and the 2nd respondent received RCS notice and he may be permitted to file his objections as above mentioned.

5.Recording the same, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

sms/mpl

To

1. TheInspector of Police,
Vadavalli Police Station,
Coimbatore District.



2. The Public Prosecutor,
High Court,
Madras.

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+1cc to M/s.N.Kavitha Rameshwar, Advocate, S.R.No.12951

CRL.O.P.No.19426 of 2018
&
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SVI (CO)
SU(11/03/2022)