



Crl.O.P.Nos.13082 of 2022 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.08.2022

DELIVERED ON : 17.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.Nos.13082, 12317 & 13366 of 2022
and Crl.M.P.Nos.7912, 6885 & 7014 of 2022

Crl.O.P.No.13082 of 2022

B.Narasimhan

.. Petitioner/A2

Vs.

1. State Rep. by its
Assistant Commissioner of Police,
Tharamani Range, Thiruvanmiyur,
Chennai - 41.

2. State Rep. by its
Inspector of Police,
Tharamani Police Station,
Chennai - 113.

3. K.Ilanchezhian

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in Crime No.164 of 2022 pending on the file of the second respondent police and to quash the same.



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For Petitioner : Mr.C.Sivanesan
For Respondents 1 & 2 : Mr.E.Raj Thilak
Additional Public Prosecutor
For Respondent 3 : Mr.G.R.Hari

Crl.O.P.No.13366 of 2022

K.Ilanchezhian .. Petitioner

Vs.

1. The State,
Rep. by Inspector of Police,
J-13, Tharamani Police Station,
Adyar, Chennai.
(Crime No.165 of 2022)

2. Dr.Anitha Manohar .. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in Crime No.165 of 2022 pending on the file of the first respondent police and to quash the same.

For Petitioner : Mr.G.R.Hari
For Respondent 1 : Mr.E.Raj Thilak
Additional Public Prosecutor
For Respondent 2 : Mr.R.John Sathyan
for Mr.N.Chandrasekar

Crl.O.P.No.12317 of 2022



Crl.O.P.Nos.13082 of 2022 etc., batch

Dr.Anitha Mabel Manohar

.. Petitioner/A1

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Vs.

1. The State of Tamil Nadu
Represented by its Inspector of Police,
J-13, Taramani Police Station,
Chennai - 600 113.

2. K.Ilanchezian

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to call for the records in Crime No.164 of 2022 pending on the file of the first respondent police and to quash the same.

For Petitioner	:	Mr.AR.L.Sundaresan SC for Mr.N.Chandrasekar
For Respondents 1	:	Mr.E.Raj Thilak Additional Public Prosecutor
For Respondent 2	:	Mr.G.R.Hari

COMMON ORDER

Crl.O.P.No.12317 of 2022 and Crl.O.P.No.13082 of 2022 are filed by A1 and A2 respectively to quash the FIR in Crime No.164 of 2022 on the file of the respondent police for the offence punishable under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.



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WEB COPY 2. Crl.O.P.No.13366 of 2022, has been filed to quash the FIR in Crime No.165 of 2022 on the file of the respondent police for the offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998.

3. It is relevant to note that the defacto complainant in Crime No.164 of 2022 dated 08.05.2022 was the accused in Crime No.165 of 2022 dated 08.05.2022 and A1 in Crime No.164 of 2022 is the defacto complainant in Crime No.165 of 2022.

4. Since the case and counter case are registered against both sides, this Court is inclined to dispose of all the three criminal original petitions by means of this common order.

5. For convenience, the petitions in Crl.O.P.No.13082 of 2022 and Crl.O.P.No.12317 of 2022 seeking to quash the FIR in Crime No.164 of 2022 are taken up first for disposal. The brief facts leading to the filing of the above two petitions are as follows:



(i) The defacto complainant in Crime No.164 of 2022

Mr.K.Ilanchezian is working as Senior Assistant Director (Administration) at National Institute of Fashion Technology (NIFT), Taramani, Chennai. A1 Dr.Anitha Mabel Manohar was working as the Director of NIFT and A2 Mr.B.Narasimhan was the former Director of NIFT.

(ii) According to the defacto complainant he was working as the Assistant Director in NIFT, Chennai and he was allotted a separate cabin. When the matter stood thus, on 21.09.2020, he was relieved from the work and he was allotted separate room in the hostel by A1 due to caste discrimination as he belongs to Scheduled Castes. After his complaint to the Head Office, the Head Office recommended to permit him to work in his original place.

(iii) Again on 04.01.2022, he was promoted to the post of Senior Assistant Director. However, A1 has not allowed him to work in a regular cabin. On the contrary, he was directed to work in Civil and Electrical Unit. According to him, the above act was done by A1 only based on caste discrimination and she has also given a complaint of sexual harassment. The



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Internal Committee has also given a report alleging that the allegation of sexual harassment was found to be false.

(iv) According to him, A1 has also made adverse entries in the Performance Appraisal Report and A1 has also asked the defacto complainant to take his car from the car park. According to him, he was not given proper seat in the office and he has also given complaint against A1 for irregularities. According to him, he was discriminated on the basis of caste and therefore, he launched a complaint and thereby a FIR in Crime No.164 of 2022 has been filed for the offence punishable under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Brief facts leading to the filing of the Crl.O.P.No.13366 of 2022, seeking to quash Crime No.165 of 2022 is as follows:

(i) According to the defacto complainant Dr.Anitha Manohar, the accused Mr.K.Ilanchezian was working as Senior Assistant Director and he was constantly harassing the defacto complainant in various forms and not allowing her to perform her duties.



(ii) On 28.03.2022, the accused published false news in the newspaper

and media with an intention to defame and humiliate her. The false news was also telecasted in "Puthiya Thalaimurai" news channel. His false complaints are based on internal transfer and postings which is the normal official procedures as per Vigilance Rules of Government of India. After completing three years in any sensitive posts, staff are to be rotated, while the normal routine rotation was being implemented, the accused is misleading the police and media and that is harassment.

(iii) She was under media trial on an issue which is purely an internal office matter and since she has been harassed for more than five years, hence FIR has been registered under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act.

7. Both the FIRs are sought to be quashed by the accused in both the FIRs.

8. Mr.AR.L.Sundaresan, learned senior counsel appearing for Dr.Anitha Mabel Manohar, the petitioner in Crl.O.P.No.12317 of 2022,



vehemently contended that the allegation of caste discrimination is nothing but false imagination. The defacto complainant being aggrieved over the regular internal transfer of office and in order to take revenge against the Director has given a false complaint. It is his contention that the allegation of caste discrimination, was found to be false in the internal enquiry and the report given by the Internal Complaints Committee, NIFT Head Office clearly indicates that the allegation of caste discrimination by Mr.Ilanchezian against Dr.Anitha Mabel Manohar is baseless and devoid of any truth. The learned senior counsel also pointed out various official orders of transfer of staff based on the CVC guidelines with the approval of the Head Office. Therefore, mere internal transfer of the staffs cannot be considered as caste discrimination. Whereas, it is contended that the defacto complainant Mr.K.Ilanchezian has brought an external force like Member of Parliament and gave false news in the newspapers and consistently harassed the accused and hence the entire allegation are pressed into service and the FIR is nothing but an abuse of process of law. Therefore, he seeks quashing of the FIR in Crime No.164 of 2022 on the file of the respondent police.

9. Mr.John Sathyan, learned counsel appearing for Dr.Anitha Mabel



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Manohar, the defacto complainant, in Crl.O.P.No.13366 of 2022 would submit that the act of the accused in consistently publishing false news in some of the newspapers and bringing an external force is nothing but harassment, hence opposed the quashing of the FIR in Crime No.165 of 2022 as against Mr.K.Illanchezhian for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998.

10. Mr.G.R.Hari, learned counsel appearing for Mr.K.Illanchezhian the petitioner in Crl.O.P.No.13366 of 2022 and defacto complainant in other two petitions, would submit that prima facie, the offence of caste discrimination has been made out in the FIR. Even assuming that the offence under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has not been made out, offence under Section 3(1)(y) would be clearly made out and it can be seen only during the course of investigation. Therefore, at this stage, quashing of FIR does not arise at all. He further submitted that the quashing of FIR in Crime No.165 of 2022 for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 is maintainable and the same should be quashed. According to the learned counsel, Mr.K.Illanchezhian was deprived of his right



to have a car park and he was given a place in other building, which is clearly caste discrimination and hence opposed the quashing of the FIR in Crime No.164 of 2022 for the offence under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

11. Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent police would submit that while exercising power under Section 482 of Cr.P.C., the Court will not examine the correctness of the allegations in the complaint except in exceptionally rare cases. Hence, it is the matter for investigation and oppose the quashing of both the FIR at this stage.

12. I have considered the above submissions and also perused the entire materials.

13. Crime No.164 of 2022 has been registered for offence punishable under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as against the present Director of NIFT as well as the previous Director of NIFT. The crux of the allegations in the said FIR is that the defacto complainant Mr.K.Ilanchezhian was working as



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Assistant Director (Administration) and he was allotted a separate cabin. On

21.09.2020, he was relieved from that post and placed in the hostel premises.

Thereafter, despite the recommendation of the Head Office to restore his office, the same has not been done. Again, after his promotion as Senior Assistant Director, he was not given job, whereas, he was assigned job of electrical and civil work. That apart, he was also directed to park his car behind his office. Therefore, his entire contention is that he was discriminated on caste basis.

14. Case and counter case has been registered. Normally the Court will not venture to look into the correctness of the allegations in the complaint, only in exceptional and rare cases, when the Court finds that the allegations are frivolous and if the entire allegation taken at the face value do not constitute any offence, the Court will certainly interfere with the FIR at the investigation stage.

15. On a perusal of both the complaint, this Court is of the view that considering the admitted documents, considering the nature of work and the post held by both sides, it is necessary to find out whether the accusation



made by both sides have some semblance of truth or not.

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16. It is not disputed that Mr.K.Illanchezhian was the defacto complainant and at his instance FIR under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 for the offence punishable under Section 3(1)(r) was filed. He was working as an Assistant Director and he was working originally in the Establishment Section and he was relieved by an order dated 21.09.2020 and he was provided seating arrangement at Boys Hostel in Room No.115. The above order has been issued with the approval of the competent authority as could be seen from the typed set of papers. It can also be seen that several complaints were also given on caste discrimination against the Director by him.

17. It is also relevant to note that the Vigilance Department of NIFT, New Delhi has issued guidelines with regard to declaring certain posts as sensitive post, in its communication dated 07.10.2020, all other staff mentioned in Sl.No.1 to 18 except Sl.No.17 was directed to be rotated within the respective campus and in the above communication, it is also directed that the Assistant Director and Junior Engineers, who have completed 03 years on



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a particular seat should be rotated by the Registrar/OSD (Establishment),

NIFT HO. The above communication has been issued with the approval of the Director General, NIFT. The transfer of Mr.Ilanchezhian was also intimated to the Director, NIFT, Chennai by communication dated 19.08.2021, from the Head Office directing the Director, NIFT to follow CVC, Guidelines to take appropriate action. It is also mentioned in the said letter that it has been issued with the approval of the Director General, NIFT.

18. Thereafter, on 19.08.2021, transfer order has been passed posting Mr.K.Ilanchezhian, from the post of Assistant Director (Establishment) to the post of Assistant Director (Academics) in the office of Academic Department. It also appears from the records that the said transfer order has been passed with the approval of the competent authority. Thereafter, Mr.K.Ilanchezhian has made allegations of caste discrimination and Dr.Anitha Mabel Manohar, Director, NIFT also appears to have made allegations of women harassment.

19. Pursuant to the allegations of both sides, a Fact Finding Committee was constituted consisting of the following officers:

(i) Col.Subroto Biswas, Director, NIFT Bhopal



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(ii) Dr.Sanjeev Kumar, Director (NRC), HO

(iii) Prof.Usha Narsimhan, Delhi Campus

(iv) Mr.Raj Singh, DD (Estt.), HO

20. In the meanwhile, Mr.K.Ilanchezhian has also brought in influence through Members of Parliament and they also sent communication therefore the above Committee has been constituted. The Committee has also been reconstituted on 05.01.2021 and the Committee has in its report has stated that the allegation of caste discrimination by Mr.Ilanchezhian against Dr.Anitha Mabel Manohar is baseless and devoid of any truth. It has also recorded a finding that none of the witnesses had seen or heard of any incident of physical or verbal or any harassment of sexual nature by the charged officer Mr.Ilanchezhian and therefore the Committee has held that it did not find the charged officer guilty under the Prevention of Sexual Harassment of Women at Workplace Act Act, 2013. The Committee has also found that since the allegations such as insubordination, false representation to higher authorities bringing outside influence are not covered by the provisions of Prevention of Sexual Harassment of Women at Workplace Act, all these actions may be construed as violation of CCS Conduct Rules, 1964 and remedy for the same



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lies not in Prevention of Sexual Harassment of Women at Workplace Act but elsewhere i.e. in CCS (CCA) Rules. The Committee has further recorded a finding that it will be more appropriate if the complainant had reported the alleged acts of the charged officer for initiation of action as per CCS (CCA) Rules. The Committee has also recorded a finding that the allegation of caste discrimination as alleged by Mr.K.Ilanchezian against the Director has not been established and therefore there is no caste discrimination against Mr.K.Ilanchezian. These are all revealed from the official records produced before this Court.

21. In the above backdrop, the allegation in the FIR filed in Crime No.164 of 2022, for the offence punishable under Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned, the main allegation appears to be with regard to relieving Mr.K.Ilanchezian from his post and allotment of a separate room. It is the contention of the defacto complainant that it was done based on caste discrimination, whereas, the records produced before this Court, as indicated above, makes it clear that it is made only as per the CVC Guidelines and with the approval of the Head Office. Therefore, any subordinate officer who is



not happy with his transfer cannot contend that it has been made only based on caste discrimination, if such trend is encouraged, there will be no discipline in the administration. If the entire allegations contained in the FIR is carefully seen, this Court is of the view that the offence punishable under Section 3(1)(r) of the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would not get attracted. Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 reads as follows:

"Section 3. Punishment for offence of atrocities - (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:-
(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"

22. If the entire allegation is taken on its face value, the defacto complainant has been transferred as per the guidelines and with the approval of the Head Office and allotment of different office space, it cannot be said that there was intimidation or insult with intent to humiliate a member of the Scheduled Caste or a Scheduled Tribe in any place within public view. When an official act has been done as per the Rules and transfer is effected, the same



cannot be called as an insult or humiliation of a member of the Scheduled Caste.

23. Similarly the contention of the learned counsel for the defacto complainant that even if the allegation does not attract offence under Section 3(1)(r) of the Act, it would definitely attract the offence under Section 3(1)(y) of the Act. This Court is unable to countenance the said submission. Section 3(1)(y) of the Act reads as follows:

"Section 3. Punishment for offence of atrocities - (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:-

(y) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any other section thereof have a right to use or access to;"

24. It is not the case of the defacto complainant that he has been denied right of passage to a place of public resort or obstructed so as to prevent him from using or having access to a place of public resort to which



other members of public or any other section thereof have a right to access.

Merely because there is a separate office as alleged and he has not been given restoration to his original office space, it cannot be stated that he has been denied right to access or he has been prevented from using or having access. When his post has been rotated as per the Rules and transferred to a different portfolio, as alleged, it cannot be said that he has been denied right to access. Every post and every section is independent establishment and one cannot demand right to access to every area or section, other than the place he was allotted, therefore, this Court is of the view that offence under Section 3(1)(y) of the Act also will not be attracted.

25. From the above narration and discussions, it appears that the complaint has been given due to the grievance of the petitioner that he has been transferred from Establishment Section to other area and the complaint is a result of his dissatisfaction over the job. Therefore, if such complaints are entertained and criminal liability is fastened, it will result in catastrophe in the administration. Accordingly, this Court hold that the case is nothing but an abuse of process of law and accordingly the above complaint in Crime No.164 of 2022 on the file of the respondent police stands quashed.



WEB COPY 26. With regard to the other FIR in Crime No.165 of 2022 registered for the offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 is concerned, the entire allegation appears to be that since the accused has given a false news in newspapers and brought in external influence she has been sexually harassed. It is relevant to note that the initial sexual harassment complaint also been given against the accused by the Director, which was found to be false by the Internal Committee as referred above. Though the act of Mr.K.Ilanchezian may be contrary to the Rules, insubordination, the action will be by way of disciplinary proceedings by following appropriate Rules and not by way of lodging a complaint of sexual harassment. Section 2(a) of the Tamil Nadu Prevention of Sexual Harassment of Women at Workplace Act, 1998 defines 'harassment', as follows:

"Section 2(a) "harassment" means any indecent conduct or act by a man which causes or is likely to cause intimidation, fear, shame or embarrassment, including abusing or causing hurt or nuisance or assault or use of force;"



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27. On a careful perusal of the definition, there must be an indecent conduct or act by a man which cause or is likely to cause intimidation, fear, shame or embarrassment including abusing or causing hurt or nuisance or assault or use of force. Mere ventilation of grievance by some other method by bringing in outside influence and giving a complaint to higher officials, it cannot be said that there was indecent conduct or act by the accused so as to bring such act within the ambit of Section 4 of the Act.

28. Admittedly, the Internal Committee has also found that sexual harassment is not established and found to be false. The Internal Committee has also observed that the act of Mr.K.Ilanchezian bringing external influence and giving false complaint to the authorities may be against the Rules governing the parties.

29. Such view of the matter, the remedy lies somewhere else and not by way of setting the criminal law in motion. Accordingly, this Court is of the view that the complaint in Crime No.165 of 2022 on the file of the respondent police for offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 is also nothing but an abuse of process of



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law and accordingly the same is also liable to be quashed and accordingly
quashed.

30. Thus, both the complaints have been filed due to misunderstanding and ego between two officers who are working in the same institution. Ego of the parties played main role in accusing each other and the same has culminated into criminal cases. Therefore, this Court holds that both the FIR filed by the parties are nothing but abuse of process of law and accordingly both the FIRs stand quashed and all the three criminal original petitions are allowed. Consequently, the connected miscellaneous petitions are closed.

17.08.2022

Index : Yes / No
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To

1. The Assistant Commissioner of Police,
Tharamani Range, Thiruvanmiyur,
Chennai - 41.
2. The Inspector of Police,
Tharamani Police Station,
Chennai - 113.
3. The Public Prosecutor,
Madras High Court.



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N.SATHISH KUMAR, J.

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PRE DELIVERY COMMON ORDER in
Crl.O.P.Nos.13082, 12317 & 13366 of 2022
and Crl.M.P.Nos.7912, 6885 & 7014 of 2022

RESERVED ON : **05.08.2022**

DELIVERED ON : **17.08.2022**