

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2020  
PRONOUNCED ON : 05.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.12740 of 2021  
and  
Crl.M.P.No.7056 of 2021

D.Deeneesh

...Petitioner/Accused

Vs.

1. State Represented by its,  
The Inspector of Police,  
S-11 Police Station,  
Tambaram [St.Thomas Mount],  
[Crime No.40 of 2020],  
Chennai.

2. S.Selvi

...Respondents/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the FIR in Crime No.40 of 2020 pending on the file of the Inspector of Police, S-11 Tambaram Police Station, Chennai-600 045.

For Petitioner : Mr.L.Murali Krishnan

For R1 : Mr.A.Damodaran,  
Additional Public Prosecutor

For R2 : Mr.D.Arunkumar

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.40 of 2020, pending on the file of the 1<sup>st</sup> respondent Police.

2.The 2<sup>nd</sup> respondent lodged a complaint against the petitioner on 25.01.2020, for alleged occurrence said to have taken place on 23.01.2020. The complaint of the 2<sup>nd</sup> respondent is registered as Crime No.40 of 2021, for offence under Sections 341, 294(b), 323, 506(i) and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3.The gist of the case is that the 2<sup>nd</sup> respondent is residing with her husband and they have three children. The first daughter of the 2<sup>nd</sup> respondent got married and living separately and other two children are residing with her. Her husband was working as Security in Sree Sankara Bala Vidyalaya Golden Jubilee School, Chennai. The 2<sup>nd</sup> respondent was working as housemaid in CTO colony, Chennai in six houses for the past five years. On 23.01.2020, at about 01.30 p.m., after finishing work, when the 2<sup>nd</sup> respondent was returning home in her bicycle through 4<sup>th</sup> Street, CTO colony, the petitioner herein said to have restrained her, pushed her down, abused, dragged her and also slapped on her cheek. The petitioner also abused the 2<sup>nd</sup> respondent that nobody is coming for housemaid work in his house due to her act. When the public came to help her, the petitioner abused and threatened them to disperse. Thereafter, the 2<sup>nd</sup> respondent informed her son about the happenings, who took her to Government Hospital, Chrompet for treatment. Since there is contusion on her body, she took CT Scan Ortho and X-Ray and produced the same along with the complaint. Due to the assault of the petitioner, the 2<sup>nd</sup> respondent was unable to carry on with her routine normal work. Hence, she lodged the above complaint.

4.The learned counsel for the petitioner submitted that earlier, the petitioner's father has lodged a complaint against the 2<sup>nd</sup> respondent on 28.01.2020 to the 1<sup>st</sup> respondent Police. He stated that on 04.09.2019, the petitioner's father had gone out to accompany his grand daughter and his wife and after reaching home, he saw missing of 8 ½ sovereigns of gold chain. Prior to this occurrence, 15 sovereigns of gold chain were found missing. Suspecting the 2<sup>nd</sup> respondent, who worked as housemaid in his home, he lodged a complaint. Initially, C.S.R.No.794 of 2019 was assigned and later, a case in Crime No.41 of 2020, for offence under Section 381 IPC registered. To escape from the criminal complaint lodged by the petitioner's father, the 2<sup>nd</sup> respondent projected that she was assaulted by the petitioner on 25.01.2020. The 1<sup>st</sup> respondent Police though registered FIRs on both the complaint of the petitioner's father and the 2<sup>nd</sup> respondent, he failed to follow the Police Standing Order 588A.

5.The learned counsel for the petitioner further submitted that the petitioner has completed B.E.,Electronic Communication and MBA in Loyola College and now working as Software Designer in Cognizant Technology at Solinganallur. The petitioner was sent to Musqat by Cognizant Technology and returned to Chennai only on 20.01.2020. Now, he is residing with his parents. The 1<sup>st</sup> respondent Police for the reasons best known, had closed the FIR registered on the complaint of the petitioner's father in Crime No.41 of 2020 as 'Undetectable' on 06.01.2021. As against the closure report, the petitioner's father filed a protest

petition before the learned Judicial Magistrate, Tambaram. He further submitted that prior to the registration of FIR on the complaint of the petitioner's father, the petitioner's father had sent a representation to the Director General of Police, Dr.Radhakrishnan Road, Mylapore, Chennai and the Joint Commissioner of Police, South. He further submitted that on reading the complaint of the 2<sup>nd</sup> respondent, it is apparent that the occurrence alleged to have taken place is highly improbable and no offence committed by the petitioner. The 2<sup>nd</sup> respondent to wriggle out from the theft case, lodged a complaint against the petitioner. The complaint of the 2<sup>nd</sup> respondent is highly artificial and improbable. The 1<sup>st</sup> respondent Police failed to analyze the same and mechanically registered the FIR against the petitioner. Hence, he prayed for quashing of FIR against the petitioner.

6.In support of his submissions, the learned counsel for the petitioner relied on the judgment of this Court in the case of "Chandran and another Versus State represented by Sub-Inspector of Police, Mathigiri Police Station in CrI.A.No.891 of 2012".

7.The learned Additional Public Prosecutor appearing for the 1<sup>st</sup> respondent Police submitted that in this case, on the complaint of the 2<sup>nd</sup> respondent for the occurrence said to have taken place on 23.01.2020, an FIR in Crime No.40 of 2020 was registered. During investigation, nine witnesses were examined and their statements were recorded. LW1 is the defacto complainant/2<sup>nd</sup> respondent; LW2 to LW6 are eye witnesses; LW7 and LW8 are witnesses for Observation Mahazar and Rough Sketch and LW9 is the Sub Inspector of Police/Investigating Officer. Now, the investigation completed and charge sheet filed before the learned Judicial Magistrate No.I, Tambaram on 07.10.2020 and the same is yet to be taken on file.

8.The learned counsel appearing on behalf of the 2<sup>nd</sup> respondent submitted that the 2<sup>nd</sup> respondent was working as housemaid for the past several years at CTO Colony, Chennai. At the time of occurrence, she was working in five houses. On 23.10.2020, when she was returning home in bicycle after finishing work, the petitioner, who got enraged, since no action taken by the 1<sup>st</sup> respondent Police on the complaint lodged by his father about the theft committed by the 2<sup>nd</sup> respondent, restrained her, abused and assaulted her in the presence of witnesses. The persons present in the scene of occurrence clearly stated about the assault committed by the petitioner. The FIR in Crime No.41 of 2020 registered against the 2<sup>nd</sup> respondent on the complaint of the petitioner's father was closed as 'Undetectable'. Now, the investigation in Crime No.40 of 2020 completed and charge sheet has been filed before the learned Judicial Magistrate No.I, Tambaram. The points raised

by the petitioner are factual in nature, which has to be decided only during trial and not in this Quash Petition and the same is liable to be dismissed.

9.This Court considered the rival submissions and perused the materials available on record.

10.The theft complaint lodged against the 2<sup>nd</sup> respondent by the petitioner's father on 27.09.2019 is not in dispute. After assigning CSR on the complaint, the 1<sup>st</sup> respondent Police has not taken immediate action and only on 28.01.2020, an FIR in Crime No.41 of 2020 was registered against the 2<sup>nd</sup> respondent, for offence under Section 381 IPC. On the same day (28.01.2020), for the occurrence said to have taken place on 23.01.2020, FIR in Crime No.40 of 2020 was registered against the petitioner, which creates serious doubt about the way of lodging of complaint and initiation of the case.

11.On the date of occurrence (28.01.2020), the 2<sup>nd</sup> respondent worked as housemaid in the petitioner's parents home, is not in dispute. The petitioner has completed B.E.,Electronic Communication and MBA in Loyola College and now worked as Software Designer in Cognizant Technology at Solinganallur. The petitioner was sent to Muscat by Cognizant Technology and returned to Chennai only on 20.01.2020. After two days, the petitioner is said to have attacked the 2<sup>nd</sup> respondent while she was returning back home after finishing work. Strangely, immediately after the occurrence, the 2<sup>nd</sup> respondent straightaway had gone to the Government Hospital, Chrompet and got admitted as inpatient and on the next day (24.01.2020), she took CT Scan Ortho and X-Ray for the alleged injuries sustained and created records to lodge the complaint. Finally, on 25.01.2020, she lodged the complaint against the petitioner before the 1<sup>st</sup> respondent Police, which shows that there have been premeditation and the medical records created is for the purpose of lodging a complaint against the petitioner. It is highly improbable that the petitioner being a software designer, can commit such assault on the 2<sup>nd</sup> respondent that too on a public place immediately after returning from Muscat. It is not in dispute that a case in Crime No.41 of 2020 was pending against the 2<sup>nd</sup> respondent for theft of 23 ½ sovereigns of gold jewels committed by her in the petitioner's parents house. The 1<sup>st</sup> respondent Police in a flip short method, had closed the FIR in Crime No.41 of 2020 registered on the complaint of the petitioner's father as 'Undetectable' on 06.01.2021 and filed the closure report before the learned Judicial Magistrate No.I, Tambaram and the same is still pending. On the other hand, the 1<sup>st</sup> respondent Police completed the investigation in Crime No.40 of 2020 and filed the charge sheet before the learned Judicial Magistrate No.I, Tambaram, which is yet to be taken on file.

12. On perusal of the Case Diary in Crime No.40 of 2020, it is seen that the statement of the witnesses are all parrot version and the identification of the petitioner is highly doubtful. Further, there is delay of two days in lodging the complaint, no explanation is given. For the complaint lodged on 25.01.2020, the FIR in Crime No.40 of 2020 has been registered after two days on 28.01.2020. In the meantime, the medical records have been created to support the complaint. Further, no reason has been given for lodging the complaint after two days and no information was sent by the Government Hospital, Chrompet to the 1<sup>st</sup> respondent Police. The 2<sup>nd</sup> respondent to create defence for the theft case, lodged the above false complaint against the petitioner. Only after the petitioner father's effort, the FIR in Crime No.41 of 2020 was registered belatedly and on the same day, the present FIR in Crime No.40 of 2020 got registered against the petitioner. The occurrence in Crime No.41 of 2020 is much earlier to the occurrence in Crime No.40 of 2020. The fundamental facts of the case in Crime No.40 of 2020 is highly doubtful, which cannot be sustained. Further, the statement of witnesses are highly doubtful and unbelievable and the investigation conducted by the 1<sup>st</sup> respondent Police is clouded with mystery, which cannot be approved.

13. In view of the same, this Court finds that the continuation of the investigation against the petitioner would amount to abuse of process of law and the FIR in Crime No.40 of 2020 is liable to be quashed.

14. At this stage, the learned Additional Public Prosecutor submitted that in Crime No.40 of 2020, charge sheet was filed before the learned Judicial Magistrate No.I, Tambaram and the same is yet to be taken on file. Hence, this Court quashes the FIR in Crime No.40 of 2020, on the file of the 1<sup>st</sup> respondent Police against the petitioner and consequently, the charge sheet filed before the learned Judicial Magistrate No.I, Tambaram is quashed.

15. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate Court No.I,  
Tambaram.
2. The Inspector of Police,  
S-11 Police Station,  
Tambaram [St.Thomas Mount],  
Chennai.
3. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.L.Murali Krishnan, Advocate, S.R.No.754

Crl.O.P.No.12740 of 2021

VG-II (CO)  
RGA(19/01/2022)