



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.16288 & 23108 of 2021

P.Kanchana

...Petitioner in both Crl.O.P's

Vs.

1.State rep by
Inspector of Police,
W-26, All Women Police Station,
Ashok Nagar, Chennai.

2.G.Anand Raj

...Respondents in both Crl.O.P's

PRAYER in Crl.O.P.No.16288 of 2021: The Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to restore the petitioner's complaint dated 10.08.2018 in Crime No.10 of 2018 on the file of 1st respondent.

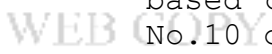
PRAYER in Crl.O.P.No.23108 of 2021: The Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to transfer the investigation from the 1st respondent police to CBCID by invoking Section 482 of Cr.P.C by restoring the petitioner's complaint dated 10.08.2018 in Crime No.10 of 2018 on the file of 1st respondent.

For Petitioner in both cases : Mr.R.Dhanasekar
For Respondents in both cases : Mr.A.Gokulakrishnan for R1
Additional Public Prosecutor
Mr.A.Nagarajan
Mr.K.R.Ramesh Kumar for R2

COMMON ORDER

The Criminal Original Petition in Crl.O.P.No.16288 of 2021 has been filed to restore the petitioner's complaint dated 10.08.2018 in Crime No.10 of 2018 on the file of 1st respondent.

The Criminal Original Petition in Crl.O.P.No.23108 of 2021 has been filed to transfer the investigation from the 1st respondent police to CBCID by invoking Section 482 of Cr.P.C by



2. Learned counsel for the petitioner would submit that based on the complaint given by the petitioner, a case in Crime No.10 of 2018 was registered by the first respondent against the 2nd respondent for the offences under Sections 406, 417, 420, 376 and 506(ii) of IPC. Thereafter, the 2nd respondent had filed Anticipatory Bail application before this Court in CrI.O.P.No.20220 of 2018 and the petitioner had also filed Intervener petition in CrI.M.P.No.11647 of 2018 in CrI.O.P.No.20220 of 2018. During the pendency of the Anticipatory bail Application, the 2nd respondent had promised the petitioner that he would marry the petitioner, if she withdraws the complaint from the 1st respondent police and based on the request made by the 2nd respondent, the petitioner had filed an affidavit before this Court and thereupon, this Court, by order dated 17.09.2018, finding that there was no apprehension of arrest as the petitioner was going to withdraw the complaint, had closed the Anticipatory Bail application. He would submit that based on the affidavit filed by the petitioner before this Court, the 1st respondent had also closed the case in Crime No.10 of 2018 as mistake of fact. However, cunningly after the closure of the case, the 2nd respondent refused to marry the petitioner and he had married another girl named one Bagyalakshmi. Subsequently, the 2nd respondent, after the withdrawal of the complaint acted indifferently and also filed R.C.O.P.No.992 of 2018 on the file of 14th Small Causes Court, Chennai to evict the petitioner from the property where she was having her office. He would submit that later the 2nd respondent had also deserted the said Bagyalakshmi and based on the complaint given by her, a case has been registered in Crime No.19 of 2021 on the file of the Inspector of Police, All Women Police Station, Thirumangalam. He would submit that the 2nd respondent is a habitual offender and thereby, the petitioner had sent a representation to the respondent police to restore the complaint. Since no action has been taken, the present petition has been filed seeking to restore the petitioner's complaint dated 10.08.2018 in Crime No.10 of 2018 on the file of the 1st respondent. He would further submit that the 2nd respondent has not only cheated the petitioner, he has also cheated the Court and yet another lady named Bagyalakshmi.

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withdraw the complaint and based on the submissions made, this Court closed the Anticipatory Bail Application. Subsequently, the petitioner had appeared before the respondent police and had filed a Sworn Affidavit stating that she had preferred the complaint based on the ill advice of one Advocate Mr.K.Suthan and placing reliance on the Affidavit and also after conducting enquiry and recording her statement, the respondent had closed the complaint as mistake of fact and the final report has also been filed before the jurisdictional Court. He would further submit that RCS notice was issued to the petitioner, she has appeared before the Court concerned and based on her submission and statements, the final report has been accepted by the learned Magistrate.

4. Mr.Nagaraj, learned counsel appearing on behalf of the 2nd respondent would submit that the petitioner had given a false complaint against the 2nd respondent, based on which, 1st respondent had registered the case. He would further submit that 2nd respondent approached this Court seeking for Anticipatory Bail and during the pendency of the Anticipatory Bail, the petitioner had filed the sworn affidavit dated 07.09.2018 wherein, she had stated that there were certain disputes between herself and the 2nd respondent for which she sought legal help from one lawyer by name K.Suthan for resolving the disputes with regard to sale deed executed in favour of 2nd respondent vide Doc.No.2198 of 2017 dated 16.08.2017 before the Sub Registrar, Ashok Nagar, Chennai and the said K.Sulthan advised the petitioner to file a criminal complaint as drafted by him to resolve the dispute and accordingly the petitioner signed the complaint without knowing the contents of it. He would submit that the 2nd respondent did not give an undertaking that he would marry the petitioner and the complaint was closed on the basis of her own admission that the complaint was given on the ill advice of her lawyer. The petitioner has also filed a sworn affidavit and given statements to that effect, based on which, the case has been closed. Now, in order to blackmail the petitioner, the present case has been filed. He would further submit that the petitioner has also appeared before the Jurisdictional Court and accepted the closure report.

5. Heard the learned counsels and perused the materials available on records.

6. It is the case of the petitioner that based on the complaint given by the petitioner, a case in Crime No.10 of 2018 was registered by the respondent police. It is her further case that 2nd respondent had filed an application for Anticipatory Bail and the petitioner had also filed an intervenor petition therein, an undertaking given by the 2nd respondent that he would marry her, if she had also withdrawn the complaint from the



respondent police, whereas it is the case of the 2nd respondent that the petitioner had filed affidavit stating that it is a false case and based on the affidavit filed by the petitioner, the case was closed as mistake of fact and thereafter RCS notice was served on her and she had also appeared before the Court concerned and had stated that she had given a false complaint and based on that, RCS was accepted by the learned Magistrate and the case has been closed.

7. This Court has perused the entire materials available on record including the copies of the affidavit filed by the petitioner before this Court as well as before the learned XVII Metropolitan Magistrate, Chennai.

8. The relevant portion of the Affidavit filed by the petitioner is extracted here under:

"2. I respectfully submit that certain disputes arose between me and Anandraj and in this regard I sought legal help from one lawyer by name K.Suthan for resolving the disputes with regard to one sale deed vide Doc.No.2198 of 2017 dated 16.08.2017 before the Sub-Registrar, Ashok Nagar, Chennai. The said K.Suthan asked me to file a criminal complaint as drafted by him to resolve the disputes and accordingly I have signed the said complaint without knowing the contents of it. The said complaint was taken on file and registered as Crime No.10 of 2018.

3. I have conducted myself at the instructions of the lawyers to raise this criminal complaint and gave news articles and after a point of time I realised that more damage is being caused to me because of these acts done by my advocates and requested them to drop these criminal charges. But they have refused to do so and as I had no one to assist me I couldn't do anything on my own but to obey the lawyer even though I didn't intend to do such things".

9. Having gone through the affidavit, this Court is satisfied that the petitioner had given a false complaint against the 2nd respondent. After the filing of RCS notice, she has also appeared before the concerned Court and given a statement based on which, final report has been accepted by the learned Magistrate and closed. At this stage, the petitioner cannot seek for restoration of her complaint dated 10.08.2019. The petition suffer from lack of merits. It is nothing but an attempt by the petitioner to abuse the process of Court.



Therefore, the Criminal Original Petition in Crl.O.P.No.16288 of 2021 is dismissed.

10. In view of the dismissal of Criminal Original Petition in Crl.O.P.No.16288 of 2021, nothing survives for further adjudication in Crl.O.P.No.23108 of 2021. Hence, the petition in Crl.O.P.No.23108 of 2021 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

nr/nti

To

1.The Inspector of Police,
W-26, All Women Police Station,
Ashok Nagar, Chennai.

2. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.K.R.Ramesh Kumar, Advocate, S.R.No.20286

Crl.O.P.Nos.16288 & 23108 of 2021

EV(CO)
RN(05/05/2022)