



Crl.O.P.No.18104 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.18104 of 2019

and

Crl.M.P.No.9162 of 2019

1.P.Dinesh Kumar @ Thanesh kumar.

2.P.Balaji

3.P.Sumithra Devi

... Petitioners

-Vs.-

1.State rep by its

The Inspector of Police,
All Women Police Station,
Perambalur, Perambalur District.

2.A.Nivethitha.

.. Respondents

Criminal Original Petitions filed under Section 482 of Code of Criminal Procedure to call for the records relating to the case in Crime No.8 of 2019 on the file of the 1st respondent and quash the same as



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against the petitioners/A1 to A3, by allowing this criminal original petition.

For Petitioners :Mr.T.Arockia Dass.

For Respondents :Mr.N.S.Suganthan,
Government Advocate (Criminal side)
for R1.

No appearance for R2

ORDER

This criminal original petition has been filed to quash the FIR which reads as follows:-

“The de facto complainant/Nivedita, daughter of Annamalai, had given the above complaint to the superintendent of police, Perambalur on 30.03.2019, alleging that one Dinesh Kumar employed in Personal Department IRON MORE MINES (NMDC), his brother Balaji and mother Sumitra Devi approached her parents for giving her married to Dinesh Kumar and her betrothal with Dinesh Kumar was held on 26.06.2015. The elders in



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the family agreed to solemnize marriage during the Tamil month of Ippasi, Shri Manmatha year, that is between October and November 2015. Subsequent to this, the first petitioner/Dinesh Kumar had sexual relationship repeatedly making her believe that he will marry her. This premarital affair has been going on for nearly four years. Suddenly Dinesh Kumar stopped interacting with her and when she went along with her parents to Neyveli and meet Dinesh Kumar and insisted to solemnize the marriage as per the betrothal, he refused and threatened her. On 10.03.2019, he came to the complainant's house at Perambalur and informed that he is going to marry somebody else and if she interfere in his life he will finish her off and thereafter violently assaulted her. This complaint dated 30.03.2019 submitted to Superintendent of Police, Perambalur and forwarded to All Women Police Station, Perambalur and taken on file for investigation in Crime No.8 of 2019 dated 05.04.2019.”



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2. The learned counsel for the petitioner submitted that it is true that the first petitioner and *de facto* complainant loved each other and engagement ceremony was conducted on 26.06.2015 in the presence of the family elders and they decided to conduct the marriage during the month of October and November 2015. But unfortunately, the first petitioner was placed under suspension. Having come to know about the suspension, the *de facto* complainant's family was not ready for marriage and therefore on 27.09.2015, they mutually agreed to drop the marriage proposal and the same was reduced into writing, in which the parents of the *de facto* complainant as well as the first respondent have signed, besides the *de facto* complainant and the first respondent, in the presence of witnesses. While the fact being so, service of the first petitioner got reinstated on 15.03.2019. After coming to know about the reinstatement of the first petitioner the *de facto* complainant, after four years, had lodged the impugned complaint alleging as if she had been subjected to sexual intercourse by the first petitioner by making her to believe that the first petitioner will marry her.



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3. The notice was caused to the second respondent through the first respondent. A report from the first respondent indicates that when she was contacted over phone, the exact place of residing of the *de facto* complainant was not disclosed by her and she has also expressed her disinclination in pursuing the complaint, since she was married and living peacefully somewhere in North India.

4. The learned Government Advocate (Criminal side), on perusing the CD file, submitted that the impugned complaint was given to the Superintendent of Police, Perambalur and the same was forwarded to the Inspector, All Women Police Station, Perambalur for investigation. The petitioners have approached this Court to quash the said complaint and interim order of stay of investigation was granted on 10.07.2019 and hence, the police has not proceeded with the investigation. It is submitted that the complaint since indicates about the alleged cheating as well as use of abusive language and hurt, the police has registered the complaint.



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5. The learned counsel appearing for the petitioner would submit that the allegations made in the complaint is inherently improbable since the betrothal held on 26.06.2015 was cancelled in the month of September, 2015 and both the parties have agreed in writing that they will not interfere in each others life. While so, the allegation made against the petitioner, that for four years the first petitioner continued the relationship with the *de facto* complainant, is improbable, more particularly, when the first petitioner had married another lady in the year 2018 after cancellation of engagement with this *de facto* complainant.

6. In said circumstances, the allegation that the first petitioner went to the house of the *de facto* complainant on 10.03.2019, picked quarrel with the *de facto* complainant and her family members, is nothing but a figment of imagination with the malicious intention to harass the petitioner, who had regained his job and got reinstated in service on 15.03.2019.



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7. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) and perused the materials available on records.

8. It is an admitted fact that the first petitioner and the *de facto* complainant/second respondent were in love and their parents have decided to solemnize their marriage. Hence, as a first step the engagement ceremony was conducted on 26.06.2015. On that date, the first petitioner was in service in NMDC but for some reason he was suspended from the service. Having come to know about his suspension from service, recording that as a reason, the engagement was cancelled and the parties concerned have entered into the cancellation deed on 27.09.2015, which is duly signed by the *de facto* complainant besides others.

9. While fact being so, after 4 years, this impugned complaint has been given as if the *de facto* complainant continued the relationship with the first petitioner and only two months prior to the complaint the first



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petitioner stopped interacting with her. The falsity in this fact and the reason for making such wild allegations is brought out by the learned counsel for the petitioner through the reinstatement order dated 15.03.2019, which says that Dinesh Kumar/first petitioner is reinstated in service as Junior Officer and the same will have the effect of back wages and other consequential benefits with effect from 15.06.2015. The impugned complaint is about 10 days after his reinstatement. Thus, it is obviously seen that the *de facto* complainant, who was not inclined to marry a jobless person, cancelled the engagement and when she came to know about the first petitioner has been reinstated in service, she want to revive the marriage proposal and for that purpose, she has made very serious allegation of deceitful carnal relationship by the first petitioner. After making such wild allegations against the petitioner and making him and his family members as accused in her complaint, now the *de facto* complainant has settled in her life and gone incognito. Even when the police tried to trace her, she has not disclosed her residential address but had informed that she is not interested in pursuing the complaint.



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10. Considering the above facts, this Court concludes that it is a fit case to be quashed to meet the ends of Justice by exercising the power under Section 482 of the Code of Criminal Procedure. Accordingly, this Criminal Original Petition is allowed and the complaint against this petitioner is quashed. Consequently, the connected miscellaneous petition is also closed.

24.11.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa

To

1.The Inspector of Police,
All Women Police Station,
Perambalur, Perambalur District.

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

nsa

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