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Crl.O.P No.18261 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.18261 of 2021
and
Crl.M.P Nos.10016 & 10017 of 2021

M.R.Sivaramakrishnan

... Petitioner

Vs.

1.State Rep. by Sub Inspector of Police
G3 Kilpauk Police Station
Kilpauk,
Chennai-600 010.

2.Thilagavathy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to quash the final report filed in C.C No.159 of 2017 pending on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai.

For Petitioner : Mr.S.Rajendrakumar
For M/s.Norton and Grant

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor
Mrs.R.Vaigai for R2
For Mr.A.Arun



ORDER

WEB COPY This Criminal Original Petition has been filed, seeking to call for the records pertaining to C.C No.159 of 2017 pending on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai and quash the proceedings.

2. As per the case of the prosecution, on 30.04.2016, at about 8.15 p.m, the de-facto complainant reached her house; at 9.00 p.m, her mother and sister came home; the accused, who is residing in the adjacent house came out and parked his bike in such a manner that it would block the exit from the de-facto complainant's house; when the de-facto complainant and her sister came out of the house and tried to find a way, the accused came and started abusing them for having touched his bike; he abused the de-facto complainant in a filthy language and threatened that she should not proceed with the pending civil case filed by her; the driver of the de-facto complainant's sister who heard the noise came for their rescue and he was also threatened by the petitioner; the occurrence was recorded in the i-pad and the recordings were also submitted along with the complaint; on the above said complaint, the case was registered in Crime No.465 of 2016 of



Kilpauk Police Station for the offences under Sections 341, 294(b), 323, 506(i) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the 1st respondent and also the learned counsel for the 2nd respondent.

4. The learned counsel for the petitioner submitted that the de-facto complainant and the petitioner are close relatives and they shared a common pathway and about which, there is already a civil suit pending. He further submitted that in order to make out an offence punishable under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002, the occurrence ought to have taken place in a public place and as per the materials available on record, it is seen that the occurrence had taken place not in a public place, but inside the house. The attention of this Court was drawn to the judgment of this Court held in **Anbazhagan v. State represented by Inspector of Police, Pallikaranai Police Station, Kancheepuram District [CDJ 2012 MHC 2168]**. In the said judgment, it



is held as follows:

"7. To attract offence under Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998 offence must have taken place at a place particularly covered by Section. A private dwelling house is not one of such places Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 1998 reads as follows:

"4. Penalty of (harassment of woman) - whoever commits or participates in or abets (harassment of woman) in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than thousand rupees".

This Court by its order dated 25.10.2010 in Crl.O.P No.13501 of 2010 in Gouresh Mehra v. The State Rep. by Tr has held as follows:

"This Court is of the considered opinion that the words "any other place" found in Section 4 are to be read "ejusdem generis". The Tamil Nadu Prohibition of Harassment of Women Act, 1998 when originally enacted consisted of 10 Sections and came into force on 30.07.1998. The offence under Section 4-A Harassment death, 4-B been included under subsequent amendments of the year 2002. Confining ourselves to the offence contemplated under Section 4 and looking into the objects and reasons of the enactment not towards informing ourselves of the amplitude of the Act but towards understanding the idea behind it, we find that the



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enactment was intended as a measure to eradicate eve teasing in public places. The Act informs what would constitute harassment in general terms in Section 3 and while prescribing a penalty for harassment under Section 4 restricts the same to harassment committed at particular places. Proceeding further, we find, that under Section 5 and 6, responsibilities are cast upon persons in charge of educational institutions, temple or other places of worship, cinema theatre or any other precinct and upon the crew of a public service vehicle or vessel. This Court considers it reasonable to hold that Section 4 of the Act was meant to deal with offences occurring in the places informed or in places of like nature. If not so read, the mention of the particular places in Section 4 would be rendered redundant and such could not have been the legislative intent. To put it differently, if the intent was to attract punishment for harassment at any and every place, Section 4 simply could have read as follows:

“4. Penalty of harassment of woman - whoever commits or participates in or abets harassment of woman in any place shall be punished.....

7.in Kochuni Vs. State of Madras and Kerala, AIR 1960 SC 1080, it has been explained that the rule of ' ejusdem generis ' was that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. It was further observed that it is clearly laid down by decided cases that the specific words must form a distinct genus or category. It is not an inviolable rule or law,



but it is only permissible inference in the absence of an indication to the contrary. In Lila Vati Bai V. State of Bombay, AIR 1957 SC 521, it is informed that the rule of ' ejusdem generis ' is intended to be applied where general words have been used following particular and specific words of the same nature on the established rule of construction that the legislature presumed to use the general words in a restricted sense; that is to say, as belonging to the same genus as the particular and specific words. Such a restricted meaning has to be given to words of general import only where the context of the whole scheme of legislation requires it. But where the context and the object and mischief of the enactment do not require such restricted meaning to be attached to words of general import, it becomes necessary to give a plain and ordinary meaning.”

5. By citing the above judgment, it is submitted by the learned counsel for the petitioner that Section of 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, would come to the rescue only if a woman is harassed in public places like educational institution, temple or other places of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or *any other place*. In support of his above contention, he relied on the judgment of the Hon'ble Supreme Court held in **Kochuni v. State of Madras and Kerala [AIR 1960 SC 1080]**. It is further submitted that in order to understand the



meaning of 'any other place' the rule of 'ejusdem generis' should be followed and it should be understood in the context of the set of preceding words.

6. However, the learned counsel for the 2nd respondent submitted that the object of the Special Act is to prevent harassment and it does not make a difference where the offence had taken place. In support of her above contention, the judgment of this Court held in **Basheer Ahamed and others v. State, rep. by The Inspector of Police, W13, All Women Police Station, Washermenpet Circle, Chennai-21 [2006 (4) CTC 374]**. was cited. In the said judgment, it is held as under:

6. Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 would read as follows:

4. Penalty for (harassment of woman). - Whoever commits or participate in or abets (harassment of woman) in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than ten thousand rupees.

7. Learned counsel for the petitioner referring to the phrase "or any other place" found in Section 4 of the Act, would submit



that the said phrase will have to be read in consonance with the places mentioned in the foregoing phrases in the Section. He also referred to the judgment in State of Karnataka v. Kempaiah, 1998 Crl.L.J. 4070, wherein it has been held that the phrase "or in any other manner" found in the definition of Section 2 (1) of Karnataka Lokayukta Act (1984) should be read to mean the same kind of things as thus specific in the very same Section.

8. But, in this case, it is found that Section 3 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 specifically prohibits the harassment of woman at any place. The Preamble would also read that the harassment of woman in any place in the State of Tamil Nadu is prohibited. When there is no specific punishment contemplated for the violation of Section 3 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998, the said Section will have to be read along with Section 4 of the said Act which is the compendious Penal Provision. A conjoint reading of Sections 3 and 4 of the said Act would give the meaning that "at any place" means wherever the occurrence had taken place. If separate punishment has been contemplated for the offence under Section 3 of the said Act, then as rightly pointed out by the learned counsel for the petitioner, "any other place" found in Section 4 would mean one of the places as adumbrated therein. But here, if we read conjointly both the aforesaid Sections, it will cover the occurrence wherever it takes place.



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7. It is reliably learnt that the charges have already been framed in this case even before this petition was filed and the trial has commenced. A few witnesses have also been examined on the side of the prosecution. Except the above technical interpretation given to Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, there is no argument advanced on the side of the petitioner with regard to the other allegations made by the 2nd respondent and the charges laid against the petitioner. Even for the sake of argument, if it is understood that in order to punish the accused for the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, the occurrence ought to have occurred in a public place, still the harassment of a woman is an offence and the accused can be punished under Section 354 IPC. Because, the Court is not precluded to punish the accused for any other lesser offence, if the offence is cognizable in nature.

8. Even according to the statement of the 2nd respondent, the occurrence had taken place at a common pathway and not inside the house of either the petitioner or the de-facto complainant. Only if the witnesses are examined and the accused is put to trial, the exact location in which the



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occurrence had taken place can come to light. Since there are sufficient materials available on record to charge the accused for the offences under Sections 341, 294(b), 323, 506(i) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and the charges have also been framed, I feel this is not an appropriate stage where the records should be called for and the proceedings should be quashed. The petitioner is at liberty to raise the points now submitted by him as his defence during the trial.

9. In view of the above stated reasons, this Criminal Original Petition stands dismissed. Taking into consideration of the long pendency of the matter, I feel it is appropriate to impress upon the learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai, to complete the trial and dispose the case in C.C No.159 of 2017, within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

28.10.2022

Index : Yes/No
Speaking Order : Yes / No
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To

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1. The Metropolitan Magistrate,
Additional Mahila Court,
Egmore, Chennai.
2. The Sub Inspector of Police
G3 Kilpauk Police Station
Kilpauk,
Chennai-600 010.
3. The Public Prosecutor
High Court of Madras.



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R.N.MANJULA, J.,

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