



CrI.O.P No.27295 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **09.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.27295 of 2022
and CrI.M.P.No.16774 of 2022

P.Parvathi

... Petitioner

Vs.

The Inspector Police
Chinnasalem Police Station,
Kallkurichi.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to quash the charge sheet No.FR-320/2021 filed by the respondent in Crime No.697 of 2021 as mistake of facts.

For Petitioner : Mr. R.Venkatesh

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER



This petition is filed to quash the charge sheet No.FR-320/2021 filed by the respondent in Crime No.697 of 2021 as mistake of facts.

2. The petitioner is the *de facto* complainant who filed this petition to quash the final report filed by the respondent police in F.I.R. No.696/2021. On the complaint given by the petitioner on 09.08.2021 a case was registered in Cr. No.696/2021 for the offence under Section 294(b), 323, 324, 506(2) and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act,2002. After completion of investigation, charge sheet in FR-320/2021 has been referred as 'Mistake of Fact'. Aggrieved over that, the present petition has been filed.

3. The learned counsel for the petitioner submitted that the accused against whom the case in Cr. No.696/2021 was registered, has also given a complaint against the petitioner and others and that case was registered in Cr. No.697/2021; since both the cases are cases in counter, the respondent ought to have taken up the investigation simultaneously and should not have closed one case as mistake of fact and file the charge sheet in another case.

4. The learned Additional Public Prosecutor submitted that in cases of



the nature the Investigation Officer has to conduct simultaneous enquiry in both the complaints in order to find out who is the aggressor and file charge sheet; if the petitioner is aggrieved of the final report, he can file a protest petition and take recourse in accordance with law and cannot seek a prayer to quash the final report.

5. Since the petitioner and opposite parties have given cases in counter, the respondent police have registered two First Information Reports vide. Cr. Nos.696 & 697 / 2021. The Investigation Officer has chosen to close one FIR as 'Mistake of fact' on the basis of materials available to him. The final report is said to have been filed in Cr. No.697/2021. As per the Police Standing Order 566(2), the Investigation Officer shall do the investigation simultaneously. But that does not mean that he has to lay the charge sheet simultaneously in both the cases even if the investigation revealed that the offence against one party alone is true and no offence has been committed by the other party. If the materials disclose that both the parties have committed offences, the Investigation Officer should have file charge sheet in both the cases and the trial should be conducted simultaneously in both the cases in order to find out who is the aggressor.



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But in the case on hand, the materials available did not disclose the commission of offence by the other party. So the respondent referred one charge sheet as mistake of fact.

6. If the petitioner is aggrieved of the said report, he can initiate appropriate proceedings under Section 156(3) Cr.P.C. or Section 200 Cr.P.C. before the appropriate forum. The petitioner cannot circumvent the procedure and seek to quash the final report which is not permissible in law.

7. In view of the above stated reasons, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

09.11.2022

Index : Yes/No
Speaking Order : Yes / No

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To:



CrI.O.P No.27295 of 2022

1. The Inspector of Police
Chinnasalem Police Station,
Kallkurichi.

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2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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