



CrI.O.P No.20893 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.12.2022**

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.20893 of 2019
and CrI.M.P.No.10774 of 2019

P.Senthil Kumar

... Petitioner

Vs.

1. State by Inspector of Police,
All women Police Station,
Gobichettipalayam,
Erode District.

2. Parimaladevi

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Cr. No.05/2019 on the file of the Inspector of Police, All Women Police Station, Gobichettipalayam, Erode District and quash the proceedings as against the petitioner.

For Petitioners : Mr.M.Purushothaman

For Respondent-1 : Mr. A.Damodaran
Additional Public Prosecutor

2 : No appearance



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ORDER

This Criminal Original Petition has been filed to call for the records in Cr. No.05/2019 on the file of the Inspector of Police, All Women Police Station, Gobichettipalayam, Erode District and quash the proceedings as against the petitioner.

2. The allegation as seen in the complaint given by the second respondent / defacto complainant is that she got married in the year 2004 and within one year of marriage, she developed misunderstanding with her husband and got separated from him and is living in her parents house; during that time, she got acquainted with the accused who was a Platoon Commander in Home Guard at Gopichettipalam; since he was laying water tanks in panchayat on contract basis and in view of that he got a sum of Rs.30,000/- from the second respondent for investment; again he got another hand loan of a sum Rs.20,000/- from the second respondent for his daughter's marriage; whenever the defacto complainant demanded the money back, the petitioner used to tell that he would marry her; on that score the second respondent used to give him money whenever he demanded; in this manner she had given nearly Rs.8,00,000/- to the



petitioner; even after ten years, the second respondent did not marry her and neither returned the money; she also came to know from her friend Lokanayaki that the accused was in the habit of cheating women and she was also cheated by the petitioner by not returning a sum Rs.3,00,000/-; when the second respondent and the said Lokanayaki were in search of accused, they spotted him at the Government hospital on 04.10.2018 and demanded to return their money; but he abused the second respondent and Lokanayaki and humiliated them and also threatened that he would kill them if they demanded money. On this allegation a case has been registered in Cr. No.5 of 2019 for the offences under Section 294(b), 417, 420 & 506(1) IPC.

3. The learned counsel for the petitioner submitted that there are lot of contradictions between the time and date mentioned in the First Information Report; the defacto complainant was already married and her marriage is still in force; hence, it is not correct to state that she was cheated by the petitioner on the assurance of marrying her; the complaint has been filed after a lapse of seven months from the date of occurrence and hence it is not reliable; the marriage of the petitioner's sister had taken place much earlier



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and hence the demand of Rs.20,000/- on account of the marriage of the accused cannot be true; the petitioner had received lot of awards for his honest performance as a Home Guard and this complaint is given just to prevent him to get promotion in his carrier; the second respondent has filed a petition for maintenance from her husband in M.C. No .8 of 2008 and hence it is unbelievable to say that she had lent a huge sum of Rs.8,00,000/- to the petitioner; the complaint has been given just to harass the petitioner and hence it is liable to be quashed.

4. The learned Government Advocate submitted that there are sufficient ingredients to make out a case against the accused for the offence under Section 294(b), 417, 420 & 506(1) IPC and hence the matter should be allowed to be investigated; many of the facts regarding the occurrence has to be enquired in detail and the Court cannot come to any pre-matured conclusion at this stage itself about the intention of the petitioner.

5. The allegation of the second respondent / defacto complainant is that the petitioner used to take advantage of the woman who are either single or separated from their husbands and allure them by stating that he



would marry her and on that score, he would demand money from them.

Even though the second respondent's marriage was in subsistence she does not live with her husband. The petitioner had made use of the vulnerability of the woman like the second respondent and had taken advantage of the situation to grab money from them. Though it is stated by the petitioner that his sister marriage had occurred long before the occurrence, that cannot be within the knowledge of the second respondent. Since the petitioner was behaving in a friendly manner with the second respondent and not introduced her to his family members, the second respondent might not have the occasion to know whether his sister had got married.

6. Since the petitioner had impressed the *de facto* complainant in such a way that she would give money whenever he wanted, there are lot of materials available and on which investigation should be done. At the very initial stage, the Court cannot conduct any roving enquiry in order to find out the veracity of the complaint. But on the face of it, the complaint makes out a case against the petitioner for the offences under Section 294(b), 417, 420 & 506(1) IPC. Unless a detailed investigation is allowed to go, the real facts cannot come to light. If no serious action has been taken, that would



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only embolden criminals to commit more crimes. Since the materials as such make out a case for investigation, I do not prefer to invoke powers under Section 482 Cr.P.C.

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

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

1. The Inspector of Police,
All women Police Station,
Gobichettipalayam,
Erode District.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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