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CrI.O.P.No.24977 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.24977 of 2022

Anbarasan

... Petitioner

1. State represented by the
Inspector of Police,
All Women Police Station-Ambur
(Crime No.8 of 2022)
Tirupathur District 635 802.

2. Ms. Joyce Meriba

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records and quash the FIR registered in Crime No.8 of 2022 on the file of the respondent police.

For Petitioner : M/s.Mumtaj Surya M.A.

For R1 : Mr.S.Santhosh
Govt. Advocate (CrI. Side)

ORDER

This petition has been filed to call for the records and quash the FIR registered in Crime No.8 of 2022 on the file of the respondent police.

2. The learned counsel for the petitioner submitted that an FIR has



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been registered against the petitioner in Crime No.8 of 2022 on the file of the respondent police on 27.7.2022 for the offences punishable under sections 376(2), 354 A and 506(i) IPC. She would further submit that the petitioner and the defacto complainant Joyce Meriba loved each other and proposed to get married and subsequently they have not married and before that they were having sexual intercourse. Thereafter, their marriage was proposed and fixed, but subsequently, due to difference of opinion, their marriage was not performed. Therefore, the act of petitioner only amounts to breach of trust, but not committal of rape, therefore, the offence under section 376(2) will not be made out. She would further contend that the petitioner did not threaten the defacto complainant and the allegation regarding threatening the defacto complainant is false, thus she prayed for quashing the FIR.

3. The learned Govt. Advocate (crl.side) appearing for the respondent police submitted that serious allegations are levelled against the petitioner in the FIR for commission of rape and also regarding uploading of obscene photographs and other accounts in facebook, therefore



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cellphone of the petitioner has been seized from the parties and they were sent for examination and the same is now under investigation. He would further contend that since serious allegations have been stated against the petitioner in the FIR, which was *prima facie* disclosed in the averments of the complainant, the case has to be necessarily investigated, therefore before completing investigation, it is not proper to quash the FIR and pleaded to dismiss the Criminal Original Petition.

4. Heard both sides and perused the materials available on record.

5. On perusal of records, it is revealed that the respondent police registered a case against the petitioner in Crime No.8 of 2022 for the offences as stated above on the complaint given by one Joyce Meriba daughter of John Raj alleging that the petitioner and the defacto complainant have loved each other and were having sexual relationship many time on various dates and thereafter, the petitioner refused to marry her and called her a prostitute. Even thereafter, during the period between February 14 and 28, after conversations, they proposed to marry, but



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subsequently, the petitioner did not accept the marriage on the ground that the defacto complainant's character is not good. In these circumstances, the case has been registered against the petitioner.

6. A bare perusal of the complaint discloses that prima facie offence made out against the petitioner. The factual matters make a ground for investigating the case. Therefore on the beginning of the investigation stage, it is not proper to quash the FIR. Furthermore, it does not meet the parameters laid down by the Supreme Court in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***, ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)*** & ***PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)***, the matter has to be investigated to find out the truth. Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning stage and the same is to be conducted to find out the truth. In view of the above, I find no merits in this case of the petitioner.

7. Accordingly, the criminal original petition is dismissed.



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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
msr

To

1.The Inspector of Police,
All Women Police Station-Ambur
Tirupathur District 635 802.

2.The Public Prosecutor,
High Court, Madras.



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V. SIVAGNANAM, J.

msr

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