



*Crl.O.P.No.25572 of 2021
and Crl.MP.Nos.14163 & 14164 of 2021*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2022

CORAM:

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.25572 of 2021
and
Crl.MP.Nos.14163 & 14164 of 2021

R.Charles

...Petitioner

-Vs-

1. State represented by
The Inspector of Police,
F-5, Choolaimedu Police Station,
Chennai-600 094.

2. K.Savithri

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records pertaining to the Charge Sheet filed in C.C.No.9825 of 2018 on the file of XVII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.C.Iyyapparaj
for Mr.B.Saravana Kumar
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
R2-No Appearance



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ORDER

This Criminal Original Petition has been filed to call for the records pertaining to C.C.No.9825 of 2018 on the file of XVII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2. The case of the prosecution is that the petitioner, who is the second accused, had instigated the first accused to assault the second respondent/*defacto* complainant and instrumental in getting some documents signed by the *de facto* complainant. On the basis of such averments, a case has been registered in Crime No.412 of 2018 for the offence under Sections 294(b), 323, 448 and 506(i) IPC.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent. Perused the entire materials available on record.

4. The learned counsel for the petitioner submitted that the petitioner/second accused is in no way connected any of the offences as alleged by the second respondent; the first accused and the second respondent are sisters; the second accused is the tenant of the first accused and he sometimes intervene in the disputes between the sisters only to pacify



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them; only that has been distorted and false facts have been stated against the petitioner.

5. The learned Additional Public Prosecutor appearing for the first respondent submitted that the first accused Srividya has also given a complaint against the second respondent and on the basis of the above complaint, a case in Crime No.399 of 2018 has been registered for the offences under Sections 294(b), 323, 506(ii) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The first accused has filed a petition to quash the proceedings by filing a petition in Crl.OP.No.2193 of 2020. The said petition was allowed on 05.08.2020 and the proceedings in C.C.No.9825 of 2018 was quashed. The relevant portion of the said order dated 05.08.2020 made in Crl.OP.No.2193 of 2020 is as under:-

"8.Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.9825 of 2018 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai is quashed as against the petitioner alone. Consequently, connected miscellaneous petitions are closed."



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6. The above result would show that C.C.No.9825 of 2018 has been quashed against the first accused. The further allegation of the second respondent is that the first accused had assaulted her at the instigation of the second accused. When the case against the prime accused itself is quashed, there cannot be any material to sustain the case against the second accused. The records would show that there is no overtact against the petitioner/second accused except the single line allegation that the second accused had instigated the first accused. The materials available on record are not sufficient to make out any cognizable offence against the petitioner, especially when the case against the first accused itself got quashed.

7. In the said circumstances, I feel that it is appropriate to extend the benefit of quashing the case against the second accused also. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.9825 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai is hereby quashed. Consequently, connected miscellaneous petitions are also closed.

28.09.2022

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To

1. The Inspector of Police,
F-5, Choolaimedu Police Station,
Chennai-600 094.
2. The Public Prosecutor,
High Court of Madras,
Chennai-104.



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R.N.MANJULA, J,

kmi

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