



Crl.O.P.No. 28689 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.28689 of 2022
and
Crl.M.P.No.17599 & 17622 of 2022

1.K.Muthaiyan

2.Ezhilarasi

...

Petitioners

Vs

1.The Inspector of Police,
Vadalur Police Station,
Kurinjpadi Taluk,
Cuddalore District.

2.Vishnupriya

...

Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in S.C.No.310 of 2022 pending on the file of the Mahila Court, Cuddalore.

For Petitioners : Mr.A.V.Raja

For Respondent : Mr.S.Santhosh
No.1 Govt.Advocate (Crl.side)



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ORDER

This petition has been filed to quash the proceedings in S.C.No.310 of 2022 on the file of the Mahila Court, Cuddalore, thereby taken cognizance for the offences under Sections 417, 376 & 506(i) IPC, in Crime No.307 of 2019 as against the petitioners and another.

2.The case of the prosecution is that the petitioners' son namely Sathyaseelan A1 had a love affair with the 2nd respondent and given false promise of marrying the 2nd respondent/defacto complainant and had with physical relationship with her and refused to marry her and hence, the 2nd respondent lodged the complaint before the 1st respondent and FIR was registered in crime No.307 of 2019 by the 1st respondent police.

3.The learned counsel for the petitioner submits that the petitioner's son is an Engineering graduate and he is working as a contractual labour at NLC, Neiveli. The 1st petitioner is the father of 1st accused and he is working at Neyveli Lignite Corporation NLC, LTD at Neyveli and the 2nd



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petitioner is a mother of the 1st accused and both of them are never aware of the love affair between the petitioner's son/1st accused with the 2nd respondent and the petitioners did not aware the physical relationship among themselves.

4.The learned counsel for the petitioners further submits that all of sudden, the 1st respondent registered a case in Crime No.307 of 2019 on 08.12.2019 for the offences punishable under Sections 417, 376 and 506(i) IPC including the petitioners are arrayed as the accused No.2, 3, which is abuse of process of law and the petitioners are arrayed as the accused when no specific allegation were made against the petitioners and they are not at all having any knowledge about the relationship or love affair between the petitioners son/1st accused and the defacto complainant that being the fact so, the 1st respondent intentionally included the petitioners in the above crime and arrayed as accused and hence, the proceedings are nothing but abuse of process of law and a reading of the FIR itself reveals that there is no material to make out a prima facie case against the petitioners however the present FIR was registered vexatious complaint though no occurrence



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has been caused and the FIR is nothing but vexatious and ill motivated, therefore, interference of this Court is warranted. Hence, he prayed to quash the same.

5.The learned Government Advocate (Crl.side) appearing for the first respondent would submit that the matter now at the stage of framing charges.

6. Heard Mr.A.V.Raja, learned counsel appearing for the petitioners and Mr.S.Santhosh, learned Government Advocate (Crl.side) appearing for the first respondent.

7.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to



appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8.The Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Invstigation Vs. Arvind Khanna***, wherein, it has been held as follows:

“19. After perusing the impugned order and



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on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20.In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”



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9. Further, the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for



prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

10.In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.310 of 2022 in Crime No.307 of 2019 on the file of the Mahila Court, Cuddalore. The petitioners are at liberty to raise all the grounds before the trial Court. Considering the age of the petitioners, the personal appearance of the petitioners in Crl.M.P.No.17622 of 2022 are dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to complete the trial within a period of six months from



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the date of receipt of copy of this Order.

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11. Accordingly, this criminal original petition is dismissed.
Consequently, connected miscellaneous petition in Crl.M.P.No.17599 of
2022 is also closed.

28.11.2022

Internet: Yes
Index: Yes/no
Speaking/non speaking order
sms/mrp
To

1. The Inspector of Police,
Vadalur Police Station,
Kurinjipadi Taluk,
Cuddalore District.

2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.

sms/mrp

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