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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NOS.1995 & 22404 OF 2017
AND
CRL.M.P. NOS. 1445, 1446 & 13119 OF 2017

Crl.O.P.No. 1995 of 2017

S.C.S.K.Surendar

... Petitioner

Versus

1. The State,
   rep. by its Sub-Inspector of Police,
   C2 Hasthampatty Police Station,
   Salem Town, Salem Dt.

2. D.Manimozhi @ Geetha,
   W/o. S.C.S.Dhanapal

... Respondents

Crl.O.P.No. 22404 of 2017

S.C.S.Kamaraj

... Petitioner

Versus

1. The State,
   rep. by its Sub-Inspector of Police,
   C2 Hasthampatty Police Station,
   Salem Town, Salem Dt.

2. D.Manimozhi @ Geetha,
   W/o. S.C.S.Dhanapal

... Respondents

COMMON PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in C.C.No.85 of 2016 on the file of the Additional Mahila Court (Magisterial Level), Salem and quash the same.

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For Petitioners in both Crl.O.P.s : Mr.D.Gopinathan

For Respondent in both Crl.O.P.s : Mr.C.E.Pratap, Govt. Advocate (Crl. Side) for R1

Mr.T.Shanmugam for R2

COMMON ORDER

(This case has been heard through video conference)

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.85 of 2016 on the file of the Additional Mahila Court (Magisterial Level), Salem.

2. The petitioner in Crl.O.P.No.1995 of 2017 is arrayed as A2 and the petitioner in Crl.O.P.No. 22404 of 2017 is arrayed as A1. The case of the prosecution is that, the defacto complainant is brother wife of A1. There is a civil dispute between the parties in respect of property belong to a joint family and the suit also decreed in favour of defacto complainant's family. Subsequently, they have let out the same to a third party and both petitioners have quarreled with the tenant. When the same was questioned by the defacto complainant and her husband one Dhanabal, the petitioners said to have attacked the defacto complainant and her husband, they have also abused the defacto complainant with filthy language. Hence, a complaint was given by her. Based on that, a F.I.R. in Crime No.525 of 2015 has been registered for an offence under Sec.294(b), 323, 506(ii) I.P.C. and Sec.4 of Tamil Nadu Prohibition of Women Harassment Act. After investigation, a final report has been filed, and the learned Additional Mahila Court (Magisterial Level), Salem has taken cognizance of offence in C.C.No.85 of 2016.

3. Mr. D.Gopinathan, learned counsel appearing for petitioners would submit that, it is purely a civil dispute between the parties and civil suits are pending. Only in order to wreck vengeance, a false complaint has been filed against the petitioners and they have not involved in the offence as alleged in the criminal case. The learned counsel would further submit that on perusal of records, there is no allegation for offence under Sec.4 of Tamil Nadu Prohibition of Women Harassment Act. As the Act enacted only against eve-teasing, it is not applicable to the present case, and no charges could be framed under Sec.4 of the Act. Hence, he prayed to quash the criminal proceedings pending against the petitioners.

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4. Per contra, learned Government Advocate (Criminal side) appearing for 1st respondent would submit that, both the petitioners and the defacto complainant are close relatives, and there was a civil dispute between the parties, due to the same, on the date of occurrence, the petitioners/accused attacked the defacto complainant and her husband, and outraged her molest, and also harassed her. Hence, the complaint has been filed. The materials available on record would clearly make out a prima facie case against the petitioners and hence, he opposed to quash the criminal proceedings.

5. Heard submissions made by learned counsel appearing for petitioner and learned Government Advocate appearing for 1st respondent and perused the records.

6. On perusal of records, it could be seen that, there was a civil dispute between the parties and the suit said to have been decreed in favour of defacto complainant family. Thereafter, the property was let out to tenant, and the petitioners said to have quarrelled with the tenant. When the same was questioned by the defacto complainant and her husband, both of them were attacked by the petitioners and caused injury and also abused the defacto complainant with filthy language. The statements recorded during investigation would clearly shows that, both the petitioners have attacked the defacto complainant and her husband. During investigation, the respondent police recorded the statement of defacto complainant, and neighbouring shop-owners, their statements would clearly reveal that, the petitioners attacked and also abused the defacto complainant and her husband. In the above circumstances, the contention of the petitioners that it is only a civil dispute cannot be countenanced.

7. So far as next submission regarding the offence under Sec.4 of Tamil Nadu Prohibition of Women Harassment Act is concerned, "Harassment" has been defined under Sec.2 (a) of the Act reads as follows:-

> "(a) "harassment" means any indecent conduct or act by a man, which causes or is likely to cause intimidation, fear, shame or embarassment, including abusing or causing hurt or nuisance or assault or use of force."

8. From the above, it is clear that any indecent conduct by a man, which is likely to cause intimidation, fear, shame or embarrassment including abuse or nuisance or causing hurt or assault or use of force amounts to harassment. In the above circumstances, the materials available on record prima facie reveals that, the petitioners not only caused injury, but also abused defacto complainant and also caused hurt to her, and a

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prima facie materials available on record for the offence under Sec. 4 of the Act. Therefore, the materials on record prima facie make out a case against the petitioners and hence, I find no reason to quash the criminal proceedings. Accordingly, these Criminal Original Petitions are dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Mahila Court (Magisterial Level),
   Salem.

2. The Sub-Inspector of Police,
   C2 Hasthampatty Police Station,
   Salem Town, Salem Dt.

3. The Public Prosecutor,
   High Court, Madras.

+1cc to M/s.T.Shanmugam, Advocate, S.R.No.2312

CRL.O.P.Nos.1995 & 22404 of 2017

PL(CO)
RLP(28/01/2022)

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