



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.29601 of 2018 &
Crl.M.P.Nos.17398 of 2018 & 12969 of 2019

Tony Ezhilarasan

... Petitioner/Accused No.1

Vs

1. The State rep. by
The Inspector of Police,
All Women Police Station,
Vellore, Vellore District.
(Crime No.48 of 2014)

2. S.Divya

... Respondents/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in S.C.No.161 of 2016 pending on the file of the Additional District and Sessions Judge, Mahila Court, Vellore District and to quash the same.

For Petitioner : Mr.N.Sudharsan

For Respondents: R1 - Mr.S.Vinoth Kumar,
Government Advocate (Criminal Side)
R2 - Mr.L.Vinoth

O R D E R

This petition has been filed to quash the charge sheet in S.C.No.161 of 2016 pending on the file of the Additional District and Sessions Judge, Mahila Court, Vellore District filed against the petitioner for the offences punishable under Sections 417, 294(b) and 506(i) of I.P.C.

2. The allegation in the final report shows that the A1 under the false promise of marrying the defacto complainant deceived and had sexual intercourse with her. Thereby committed the afore said offences.



3. The learned Counsel for the petitioner submitted that the defacto complainant has given a false complaint and the same is not maintainable. Even as per the complaint, the occurrence is said to have been taken place in the year 2009 and the complaint has been preferred only in the year 2014. Further, there is no independent witness available to support the case of the defacto complainant. Therefore, sought to quash the entire proceedings.

4. At the outset, I am unable to persuade myself to the submissions of the learned Counsel for the petitioner. The allegation of sexual offence has been made against A1. Whether consent was free or out of misconception of fact, is a matter for evidence. It has to be decided only by the trial Court after appreciating the evidence and not by this Court at this stage. The Court while sitting in Section 482 of Cr.P.C. direction, cannot assume the role of the trial Court to find out whether the consent was free or out of misconception of fact etc. In such view of the matter, I do not find any merits in this petition.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed. The trial Court is directed to expedite the trial and dispose of the case expeditiously.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

vrc / kbs
To

1. The Additional District and Sessions Judge,
Mahila Court, Vellore District.
2. The Inspector of Police,
All Women Police Station,
Vellore, Vellore District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Vinoth, Advocate SR.No.6100

Crl.O.P.No.29601 of 2018 &
Crl.M.P.Nos.17398 of 2018 & 12969 of 2019

GPL (CO)
GMY (16/02/2022)