



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr.L.O.P. (MD)No.18570 of 2018

and

Cr.L.M.P(MD).Nos.8321 and 8322 of 2018

(Through video Conference)

M.Sundar .. Petitioners/Sole Accused
Vs.

1.State rep. by,
The Inspector of Police,
Vadapagam Police Station,
Tuticorin District.
(Crime No.330/2014)

.. 1st Respondent/Complainant

2.A.Adleena

.. 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in C.C.No.907 of 2017 on the file of the Judicial Magistrate Court No.III, Tuticorin and to quash the same.

For Petitioner : Mr.M.R.Sreenivasan

For R1 : Mr. A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

The petition under Section 482 Cr.P.C., is filed by the sole accused to quash the criminal prosecution against him in C.C.No.907 of 2017 on the file of the Judicial Magistrate No.III, Thoothukudi.

2. The defacto complainant is none other than the wife of the petitioner. Due to estrange marital life, it is alleged in the complaint that the petitioner herein assaulted her by hand on her abdomen and back causing simple injury. Based on the complaint, dated 08.04.2014 case has been registered in Crime No.330 of 2014 under Section 323 IPC and Section 4 of the Tamilnadu Prohibition of Harassment of Woman Act. After recording the statement of witnesses, particularly, the doctor, who has given the medical certificate and the other eyewitnesses, final report has been filed on 15.05.2014 in Crime No.330 of 2014. The learned Judicial Magistrate had taken the final report on file in C.C.No.907 of 2017.



3.The present petition to quash is filed on the ground that the defacto complainant had left the petitioner permanently and based on her petition to the police, all her belongings were handed over to her and she has given an acknowledgement to that effect on 31.03.2014 and thereafter, the present complaint has been filed just to wreck vengeance against him. The said FIR, though registered on 08.04.2014, it reached the Magistrate after delay of three days and no explanation for the inordinate delay. Further, the defacto complainant had illicit intimacy and left the matrimonial home on her own and in this regard, the petitioner herein initiated divorce proceedings in I.D.O.P.4 of 2014 and after trial, divorce was granted by the Principal District Judge, Ariyalur on 15.11.2016. Therefore, he would submit that the false complaint of the defacto complainant has no merits and therefore, the criminal prosecution initiated against him in C.C.No.907 of 2017 on the file of Judicial Magistrate No.III, Tuticorin, pursuant to the false complaint of the second respondent to be quashed.

4. This Court, pending quash petition, had referred the parties to mediation. But however, the second respondent, who is the defacto complainant, did not turn up for mediation. Be it as it may, from the complaint of the second respondent and the events which has taken prior to the complaint and subsequent to the complaint indicates that the C.C.No.907 of 2017 arising out of the complaint, dated 08.04.2014 lack material evidence to proceed against the petitioner herein. The averments made in the complaint, that on 08.04.2014 that the defacto complainant and the petitioner were living together, itself is false averments in the light of the fact that eight days earlier, that is, on 31.03.2014, the defacto complainant herein has taken away all her belongings and given acknowledgement for that. While so, alleging that thereafter the petitioner and the defacto complainant were living together and being infuriated by the complaint given by the defacto complainant against the father of the petitioner, the petitioner assaulted her causing simple injury could only be an imaginary complaint. Hence, this Criminal Original Petition is allowed and the prosecution initiated against the petitioner in C.C.No.907 of 2017 on the file of the learned Judicial Magistrate No.III, Tuticorin is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Judicial Magistrate No.III,
Tuticorin.
- 2.The Inspector of Police,
Vadapagam Police Station,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.R.SREENIVASAN, Advocate(SR-3840[F] dated
03/02/2022)

CrI.O.P. (MD) No.18570 of 2018
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MGJ(16.02.2022) 3P 5C