



CRL.O.P (MD) No.15988 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.15988 of 2020

and

CrI.M.P(MD)Nos.7930 and 7931 of 2020

Muthukumar

...Petitioner /Sole Accused

Vs.

1.The Inspector of Police,
All Women Police Station,
Andipatti,
Theni District.
(Crime No.11 of 2018)

...1st Respondent/Complainant

2.Anushya Devi

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., praying to call for records pertaining to the impugned charge sheet in C.C.No.13 of 2020 pending on the file of the Judicial Magistrate, Andipatti and quash the same against the petitioner alone.

For Petitioner	: Mr.G.Karuppasamy Pandiyan
For R1	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor
For R2	: Mr.K.Prabakaran

ORDER

This petition has been filed to quash the charge sheet in C.C.No.13 of 2020 pending on the file of the learned Judicial Magistrate, Andipatti.



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2.The learned counsel appearing for the petitioner submitted that the *de facto* complainant is the divorcee. On promise by the petitioner, they lived together. The *de facto* complainant had given 18 sovereigns of gold jewels and Rs.17,50,000/- to the petitioner. While that being so, on 19.06.2017, there was a quarrel between them. Pursuant to the same, the petitioner/accused attacked the *de facto* complainant and threatened her with dire consequences by using obscene words. Hence, the complaint has been lodged and the same was taken on file as C.C.No.13 of 2020. To quash the same, the present appeal has been filed. He further submitted that the *de facto* complainant acquaintance with the petitioner since 2016 and they lived together and there is no evidence to prosecute the case as against the petitioner/accused. Hence, the learned counsel prays for quashing the said proceedings.

3.The learned counsel for the second respondent/*de facto* complainant has objected to quash the charge sheet on the ground that the *de facto* complainant was harassed by the petitioner/accused and she sustained grievous injuries and she was treated by the witness/LW12/Dr.V.Ranjith. He well spoken about the injuries sustained by the *de facto* complainant on the date of occurrence. He further submitted that before commencement of trial, the proceedings cannot be quashed for just adjudication of the case and the case has to be tried. Hence, the learned counsel prays for dismissal of this petition.



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4.The learned Additional Public Prosecutor appearing for the respondent police submitted that now, the case is posted for examination of witnesses. Before the commencement of trial, the proceedings cannot be quashed. Hence, the learned Additional Public Prosecutor prays for dismissal of the petition.

5.A perusal of records reveals that the petitioner is an accused in C.C.No.13 of 2020 on the file of the learned Judicial Magistrate, Andipatti. The petitioner has been prosecuted by the first respondent for the offence punishable under Sections 420, 323, 294(b), 506(i) of IPC and Section TNPWH Act. Further fact reveals that the second respondent/ *de facto* complainant namely, Anushya Devi, in her statement, stated about the injuries sustained by he on the date of occurrence. Dr.Ranjith/LW12 has stated about the injuries, for which, he gave treatment and also gave wound certificate. Further in this case, charge sheet were filed before the learned Judicial Magistrate, Andipatti, Theni District and witness summon has to be issued for examination of the witnesses. At this stage, the petitioner filed this petition to quash the said proceedings.

6.On perusal of the charge sheet and the statement of witnesses shows that *prima facie* an offence and allegation made therein will have to be taken on the face value. If it could not be said that their prosecution would



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amount to an abuse of process of the Court, invoking inherent power, prior to the commencement of trial and leading of evidence, to quash prosecution is not desirable. Power should be exercised only in exceptional cases. Hence, I find no merits in the Criminal Original Petition.

7.The learned counsel for the petitioner further submitted that the petitioner is working as a Sub Inspector of Police in some other place and seeks his personal appearance to be dispensed with before the trial Court. Considering his request, the personal appearance of the petitioner before the trial Court is dispensed with on condition that the petitioner should be appear before the trial Court, whenever his present is required by the learned Judicial Magistrate.

8.Accordingly, this Criminal Original Petition stands dismissed. Consequently connected miscellaneous petitions are closed.

02.08.2022

Index : Yes / No
Internet : Yes/ No
vsd



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To

- 1.The Judicial Magistrate,
Andipatti.
- 2.The Inspector of Police,
All Women Police Station,
Andipatti,
Theni District.
- 3.Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

vsd

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