



Crl.O.P.(MD) No.15840 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 14.09.2022

Pronounced on: 17.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.15840 of 2022

and

Crl.M.P.(MD) Nos.10475 and 10476 of 2022

Thanga Palani Kumar alias Kumar

...Petitioner

vs

1.The Inspector of Police
Seevalapperi Police Station
Tirunelveli District.
Crime No.74 of 2020

2.Arumugam

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the charge sheet in CC.No.185 of 2022 on the file of the Additional Mahila Court, Tirunelveli, insofar as the Petitioner is concerned and quash the same as illegal.

For Petitioner	: Mr.K.Anand
For R1	: Mr.Albert James
	Government Advocate



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ORDER

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This Criminal Original Petition has been filed to quash the Charge Sheet in CC.No.185 of 2022 on the file of the Additional Mahila Court, Tirunelveli, insofar as the Petitioner is concerned

2.The Petitioner is the fourth accused in CC.No.185 of 2022. It is the case of the Petitioner that he was not at all in the scene of occurrence. There was dispute in lorry business between the defacto complainant and the first accused. The first accused is alleged to have threatened the second Respondent in front of their house. Therefore, the complaint was lodged by the second Respondent, based on which the FIR in Crime No.74 of 2020 for the offences under Sections 147, 148, 341, 294(b), 352 and 506 (2) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2022 had been registered.

3.It is the contention of the learned Counsel for the Petitioner that the defacto complainant did not contain the name of the Petitioner. The Petitioner had undergone graduation and successfully completed the Law Course. Due the pendency of this petition, he is unable to get his name



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enrolled with the Bar Council of Tamil Nadu and Puducherry. Even though the name of the Petitioner is not mentioned by the defacto complainant, the police had invoked the Petitioner's name. P.W1, in her cross-examination during trial, had clearly stated that she has not mentioned the name of the Petitioner. Hence, the learned Counsel for the Petitioner seeks to quash the Charge Sheet in CC.No.185 of 2022 on the file of the Additional Mahila Court, Tirunelveli.

4.In ***Crl.O.P.No.23360 of 2017 (Jeelu @ Noor Mohammed Vs. The Inspector of Police, Chennai and another) dated 30.11.2017***, this Court had held as under:-

*“6.At this juncture, it would be appropriate to refer to the Judgement of the Hon'ble Supreme Court in the case of **Lovely Salhotra and another Vs. State NCT of Delhi and another (Criminal Appeal No.670 of 2017)**, wherein, it has held that a FIR can be quashed in part, on the basis of the facts of each case and when one of the accused has offered to settle the issue amicably with the complainant, he should not be allowed to suffer by refusing to have the investigation quashed as against him.*

*7.The same proposition has been reiterated in a decision of the **Punjab and Haryana High Court, in the case of Balvinder Kumar @***



Eidhu Vs. State of Punjab and another reported in CRM-M-16847-2014 by relying on three other Judgements of the same Court wherein it was held that partial quashing of the FIR is permissible. Likewise, the other Judgement of Punjab and Haryana High Court in Crl.Misc.No.M-23739 of 2010 has held as follows.

“Broad guidelines have been laid down by the Full Bench of this Court in the case of Kulwinder Singh and Ors. Vs. State of Punjab and another 2007(3) RCR (Crl.) 1052 for quashing the prosecution when parties entered into compromise. The Full Bench has observed that this power of quashing is not confined to matrimonial disputes alone. The relevant portion of the Judgement reads as under:-

26.In Mrs.Shakuntala Sawhney v. Mrs. Kaushalya Shawney and others, (1980)1 SCC 63, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:-

“The finest hour of justice arrived propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

27.The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No



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embargo, be in the shape of Section 320(9) if the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

28.The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social emity and reduces friction, then it truly is finest hour of justice”. Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.”

The preposition, that is application to partial quashing of an FIR, would be equally applicable to partial quashing of the charge sheet”

5.The objection of the learned Government Advocate for the first Respondent that the final report cannot be quashed as it involves Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2022 and the case is pending trial and in the light of the reported ruling of the Hon'ble



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Supreme Court in the case of ***State of Haryana vs.Ch.Bhajan Lal*** reported in ***(AIR) 1992 SC 604***, this Court cannot exercise the extraordinary powers under Section 482 Cr.P.C. when the trial is part heard is rejected in the light of the reported ruling of the Hon'ble Supreme Court in the case of ***Lovely Salhotra and another Vs. State NCT of Delhi and another (Criminal Appeal No.670 of 2017)***. The Petitioner need not be forced to face the rigors of trial before the Additional Mahila Court, Tirunelveli.

6.In the result, this Criminal Original Petition is allowed. Consequently, the Charge Sheet in CC.No.185 of 2022 on the file of the Additional Mahila Court, Tirunelveli, is quashed, insofar as the Petitioner/A4 herein is concerned. Insofar as the other accused are concerned, the Judge, Additional Mahila Court, Tirunelveli can proceed with the case as per law. Consequently, connected Miscellaneous Petitions are closed.

17.10.2022

Internet:Yes/No

Index:Yes/No

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To

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- 1.The Judge,
Additional Mahila Court,
Tirunelveli.
- 2.The Inspector of Police
Seevalapperi Police Station
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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order made in
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