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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29/04/2022
Pronounced on : 25/08/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP (MD) No.14383 of 2019
and
Crl.MP (MD) No.8679 of 2019

K.G.Ashok : Petitioner/Sole Accused

Vs.

1.The State rep. by
The Inspector of Police,
Pattukkottai Town Police Station,
Pattukkottai,
Thanjavur District.
(In Crime No.250 of 2012) : R1/Complainant

2.Jeyalakshmi : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records from the Judicial Magistrate, Pattukkottai, in CC No.77 of 2014 and quash the same as against the petitioner.

For Petitioner : Mr.S.Deenadhayalan

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

For 2nd Respondent : Mr.P.Thirumahil Maran



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O R D E R

This criminal original petition is filed seeking quashment of the case in CC No.77 of 2014 on the file of the Judicial Magistrate, Pattukkottai.

2.The facts in brief:-

The de-facto complainant lodged a complaint stating that she had two elder sisters, three brothers and one younger sister. After their marriages, they are living separately. There was a partition in the family, by which the father and brothers partitioned the property, but no property was allotted to the de-facto complainant. So the mother of the de-facto complainant executed a settlement deed in respect of the housing property in favour of the her and her sisters, on 16/12/20907. The father of the de-facto complainant expired, on 16.12.2011. Her brothers objected the participation of the de-facto complainant in the funeral ceremony and they abused in filthy language, assaulted and chased her away, in respect of which, a complaint was registered, on 19/12/2011. But no proper and further action was taken in the aforesaid complaint.



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3. On 23.12.2011 at about 08.00 a.m., again the accused persons made quarrel with the de-facto complainant and criminally intimidated, assaulted and tried to kill her also. She was also prevented from performing last rituals to her father. In the above said quarrel that was made by the accused persons, a TATA cellphone and a sum of Rs.2,000/- was also found missing. On that basis, she made another complaint.

4. On the basis of the complaint given by the de-facto complainant, investigation was undertaken and after completing the formalities of investigation, final report was filed making allegations to the effect that the accused persons have committed the offences under sections 323, 294(b) 506(i) IPC and section 4 of Prohibition of Harassment of Women Act.

5. Seeking quashment of the same, this petition has been filed by the accused person on the sole ground that in respect of the very same cause of action, a private complaint in C.C No.820 of 2012 was also registered; For the same cause of action, two proceedings cannot be initiated.



6.Heard both sides.

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7.A report has been called for from the Additional Magistrate Court, Pattukkottai as to the above said issue. By a written letter, dated 17.03.2022, the learned Additional Magistrate, pattukottai stated that a private complaint as well as a police case have been registered in respect of the very same occurrence and the offences, which are also one and the same.

8.Now the only point that arises for consideration in this case is whether on the basis of the aforesaid private complaint, the police complaint case can be quashed.

9.The learned counsel appearing for the petitioner would submit that without following the mandatory provisions under section 210 Cr.P.C., the learned Magistrate has taken cognizance. According to him, the very act of taking cognizance itself is bad under law. But However, the petitioner has omitted to mention one important legal aspect as to section 210(2) Cr.P.C., which specifically deals about this issue.



10. For better appreciation Section 210(2) Cr.P.C.,
is extracted hereunder:-

"(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report."

11. By that provision, if the final report has been filed by the respondent police under Section 173 Cr.P.C., in respect of a private complaint also, then both the cases can be tried together. So the contention of the petitioner to the effect that since because, the private case also been filed and it is also reached the stage of finality, the police case must be quashed is not at all maintainable. Accordingly, direction is made to the learned Magistrate to follow Section 210(2) Cr.P.C. and dispose both the cases, within a period of four months from the date of receipt of a copy of this order, since the offence is of the year 2014.



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12. With the above direction, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

25/08/2022

Index: Yes/No
Internet: Yes/No
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To,

1. The Judicial Magistrate,
Pattukottai.
2. The Inspector of Police,
Pattukkottai Town Police Station,
Pattukkottai,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.OP (MD) No.14383 of 2019

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