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CRL.O.P.(MD)NO.18675 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2022

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No. 18675 of 2021 and

CRL.M.P.(MD)No.10332 of 2021

1. Sundari
2. Retheesh

... Petitioners / Accused Nos.2 & 3

Vs.

1. The State of Tamil Nadu,
Rep. By the Inspector of Police,
All Women police station, Colachel,
Kanyakumari District. ... Respondent / Complainant

2. Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.36 of 2020 on the file of the All Women police station, Colachel of Kanyakumari District and quash the same as against these petitioners who are accused 2 and 3 as the case is abuse of process of law.

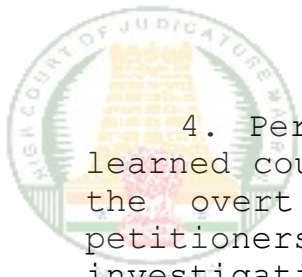
For Petitioners	: Mr.S.Titus
For R-1	: Mr.B.Thanga Aravindh, Government Advocate (Crl. Side).
For R-2	: Mr.S.Sivakumar

O R D E R

Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the first respondent and the learned counsel appearing for the defacto complainant.

2. The petitioners are figuring as accused Nos.2 and 3 in Crime No.36 of 2020 registered on the file of the Inspector of Police, All Women police station - Colachel, Kanyakumari District, for the offences under Sections 417, 376, 294(b) and 506(ii) of I.P.C. To quash the impugned First Information Report as far as they are concerned, this criminal original petition came to be filed.

3. The learned counsel appearing for the petitioners reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned First Information Report as far as the they are concerned.



4. Per contra, the learned Government Advocate as well as the learned counsel appearing for the defacto complainant submitted that the overt acts have been specifically attributed against the petitioners and that since the case is still pending at the investigation stage, this petition deserves to be dismissed.

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5. I carefully considered the rival contentions and the went through the materials on record.

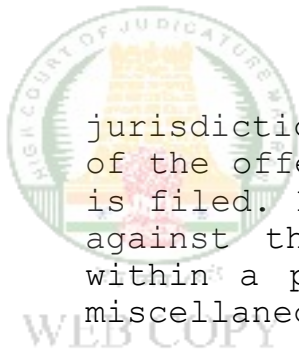
6. Even according to the defacto complainant, the occurrence had taken place right from 15.08.2019. The information itself was lodged only on 11.12.2020. The case of the defacto complainant is that the first accused forcibly had sexual intercourse with her on 15.08.2019. He later assured the defacto complainant that he would marry her and insisted her to continue to have physical relationship with him. When the defacto complainant insisted on marriage, the first accused went back on his assurances. Thereupon the impugned First Information Report came to be registered.

7. A reading of the First Information Report indicates that the allegations have been primarily levelled against the first accused, namely, Satheesh. Of course the petitioners herein are said to have criminally intimidated the defacto complainant on 11.12.2020, when she and her brothers went to have talks with the family of the first accused.

8. From this, one can very well come to the conclusion that this single allegation has been made only for the purpose of roping in the petitioners also. The first petitioner is the mother of the main accused, while the second petitioner is the elder brother of the same accused. They have not played any role or part in the transaction between the first accused and the defacto complainant. Even according to the defacto complainant, the petitioners entered the scene only on 11.12.2020. The defacto complainant and the first accused had physical intimacy right from 15.08.2019. That apart according to the defacto complainant, the occurrence had only taken place in the house of the petitioners. The petitioners did not go to the house of the defacto complainant and threaten her. Therefore, I am more than satisfied that there is absolutely no case made out against the petitioners herein.

9. The impugned First Information Report is quashed as far as the petitioners are concerned. This criminal original petition is allowed accordingly.

10. The learned Government Advocate on instructions states that a positive final report will be filed against the first accused within a period of four weeks. A reading of the allegations made by the defacto complainant primarily indicate that the offences in question have been committed only by the first accused. The



jurisdictional Court will take a call as regards taking cognizance of the offences within a period of two weeks, after the final report is filed. If cognizance is taken, the trial itself will be concluded against the first accused on merits and in accordance with law within a period of six months thereafter. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

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 Inspector of Police,
All Women police station, Colachel,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD) No.18675 of 2021
19.01.2022

SR(CO)

KB(14.02.2022) 3P 3C