



Crl.O.P.(MD)No.15861 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.15861 of 2018

and

CRL.M.P.(MD)Nos.7026 & 7027 of 2018

1.Kaliyuganathan

2.Thangapandi

... Petitioners

Vs.

1.The Deputy Superintendent of Police,
Samayanallur Sub Division,
Madurai.

2.The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Nagamalai Pudukkottai,
Madurai.

Crime No.257 of 2016

3.Latha

... Respondents



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PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned charge sheet proceedings in C.C.No.17 of 2017 on the file of the learned Additional Mahila Court (Judicial Magistrate Level), Madurai, and quash the same as illegal.

For Petitioners : Mr.R.Shankar Ganesh

For Respondents : Mr.M.Sakthikumar, - for R1 & R2

Government Advocate (Crl. side)

: No Appearance - for R3

ORDER

This petition has been filed to quash the proceedings in C.C.No.17 of 2017 pending on the file of the learned Additional Mahila Court (Judicial Magistrate Level), Madurai.



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2. The third respondent gave a complaint against the petitioners, based on which, an FIR came to be registered in Crime No.257 of 2017 and after investigation was completed, a final report came to be laid before the Court below against the petitioners for the offence under Section 448, 294(b), 323, 109, 506(ii) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2022

3. During the pendency of this case, the first petitioner namely, Kaliyuganathan/A1 died. Hence, this petition confines itself only to the second petitioner, who has been arrayed as A2.

4. Heard Mr.R.Shankar Ganesh, learned counsel appearing for the petitioners and Mr.M.Sakthikumar, learned Government Advocate (Crl. side) appearing for the respondents 1 and 2. The learned counsel appearing for the third respondent submitted that he has already returned back the bundle to the third respondent and he has no instructions in this case and he has withdrawn his vakalat.



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5. As per the final report filed by the second respondent police, it is alleged that A1 entered into the house of the defacto complainant on 01.05.2016 at about 4.00 p.m. and abused her in filthy language and attacked her and caused her simple injuries in her face and threatened the daughter of the defacto complainant with dire consequences. It is further alleged that A2 had instigated A1 to commit the above offence.

6. It is seen from the records that the defacto complainant proposed to sell the house property to A2 on 20.12.2011 through a sale agreement and the total sale consideration was fixed at Rs.26,56,000/- (Rupees Twenty Six Lakhs and Fifty Six Thousand only). A2 paid an advance of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only). The possession of the house was also handed over to A2. The lease amount that was paid by A2 was adjusted towards the balance sale consideration and a balance of Rs.10,75,200/- (Rupees Ten Lakhs Seventy Five Thousand and Two Hundred only) has to be paid by A2 at the time of execution of the sale deed by the defacto complainant.



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Certain disputes cropped up in this transaction and a suit came to be filed both from the side of the petitioners as well as from the side of the defacto complainant and series of criminal complaints came to be given against each other. Even for the same incident, there was a counter complaint given by the A2 registered in Crime No.258 of 2016.

7. A careful reading of the allegations made against the petitioners and materials available on record, shows that the offence of abatement has not been made out against the petitioners. This Criminal case is only a counter-blast for the existing civil dispute between the parties. It is seen that the defacto complainant has filed yet another private complaint against the petitioners and others, as if a subsequent event took place on 19.06.2016 and 21.06.2016 and the same has also been challenged before this Court in CrI.OP(MD) No.15862 of 2018 and the proceedings were quashed. The continuation of the criminal case will clearly amount to abuse of process of Court and the same requires the interference of this Court.



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8. In the result, the proceedings in C.C.No.17 of 2017, pending on the file of the learned Additional Mahila Court (Judicial Magistrate Level), Madurai, is hereby quashed and the Criminal Original Petition is accordingly allowed. Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes/No
Internet: Yes/No
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To

1. The Additional Mahila Court
(Judicial Magistrate Level),
Madurai.
2. The Deputy Superintendent of Police,
Samayanallur Sub Division,
Madurai.
3. The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Nagamalai Pudukkottai,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

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