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Crl OP No. 5096 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 5096 of 2021

and

Crl.M.P. No. 3241 of 2021

1.Jothilingam

2.Vinayagamoorthy

3.Jayanthi

4.Uma

5.Veeraraghavan

... Petitioners

Versus

1. The State rep.,by
The Inspector of Police,
Chithamur Police Station,
Kancheepuram District.

2. Subramani

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to the Calendar Case in C.C. No. 146 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Cheyyur, quash the same in so far as the petitioners concerned.

For petitioners : Mr. G. Maheshkumar.



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For Respondents : Mr. A. Damodaran,
Additional Public Prosecutor for R1.

R2 – Notice served.

ORDER

The petition is to quash the final report for the offence under Sections 294(b), 323 and 506(i) of the Indian Penal Code and Section 4 of the Tamil Nadu of Prohibition of Harassment of Woman Act, 2002.

2. It is alleged in the final report that the petitioners abused the defacto complainant and his wife besides threatening them with dire consequences.

3. The learned counsel for the petitioners submitted that the first petitioner had lodged an FIR against the defacto complainant and it was registered in Crime No. 552 of 2017. However, the respondent police without conducting any investigation in the said crime number, have chosen to investigate and file final report on the FIR lodged by the defacto complainant in a partisan manner. The learned counsel further submitted that respondent police has violated Order 566 of the Police Standing Orders; that the respondent police ought to have conducted investigation in both the cases and should have adopted one of the two



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courses that is directed to be adopted in the said police standing orders; and that since the respondent police has violated the said police standing orders and have conducted a partial and biased investigation, the impugned final report has to be quashed.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that there are allegations in the impugned final report which have to be adjudicated only before the trial Court. The learned Additional Public Prosecutor further submitted that the FIR lodged by the first petitioner in Crime No.552 of 2017 is pending investigation and the first respondent is likely to file a final report.

5. This Court finds that admittedly there is an FIR filed by the first petitioner in Crime No.552 of 2017 against the defacto complainant. The FIR registered against the petitioners has culminated in the impugned final report. It is admitted that Crime Nos.552 and 553 of 2017 arise out of the same transaction. The respondent police ought to have adopted one of the two courses available to them as spelt out in the Police Standing Orders. The respondent police cannot file a final report in one case first and thereafter investigate and file final report in the other case



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later. Such a course adopted would be in clear violation of the police standing orders besides causing prejudice to the petitioners. It is clear that the object of the said provision is to avoid two versions which are contrary to each other being placed before the Court in the form of two final reports. Since the action of the respondent police is contrary to the said police standing orders, the impugned final report is liable to be quashed and hence quashed.

6. Accordingly, this Criminal Original Petition is allowed by quashing the proceedings n C.C. No. 146 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Cheyyur. Consequently, the connected Miscellaneous Petition is closed.

19.04.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police,
Chithamur Police Station,



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Kancheepuram District.

2. The District Munsif cum Judicial Magistrate,
Cheyyur.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J

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