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Crl.O.P.No.4256 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.4256 of 2021

and

Crl.M.P.Nos.2719 & 2720 of 2021

K.P.Gandhi

... Petitioner

-Vs-

1. The State represented by
The Inspector of Police,
W1 All Women Police Station,
Thousand Lights, Chennai District.
Ref.Crime No.03 of 2017.

2.Mrs. Eva Durairaj

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for the records in C.C.No.245 of 2017 pending on the file
of the learned Additional (Mahila Court) Metropolitan Magistrate,
(Allikulam) Egmore, Chennai and quash the proceedings in C.C.No.245
of 2017 as against the petitioner.

For Petitioner

: Mr. R.Baskar

For R1

: Mr.A.Gopinath

Government Advocate (Crl. Side)

For R2

: No appearance



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ORDER

This petition has been filed to quash the proceedings in C.C.No.245 of 2017 on the file of the Additional (Mahila Court) Metropolitan Magistrate, Allikulam (Egmore), Chennai.

2. The case of the prosecution is that the petitioner (A1) and the defacto complainant were employed in the same company and they seemed to have become friends in the course of time. Thereafter, both the family started knowing each other. According to the second respondent, taking advantage of the relationship, accused had collected various amounts to the tune of Rs.10 lakhs and also collected 50 sovereigns of gold jewelery from the defacto complainant. Accused persons are said to have abused her in filthy language and threatened her with dire consequences. Based on this complaint given by the second respondent, an FIR came to be registered before the respondent police in Crime No.3 of 2017 for an offence under Section 323, 420, 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998.



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3. The FIR was registered against the petitioner and his wife. On completion of investigation, a final report came to be laid before the Court below for the very same offence and the same has been taken cognizance by the Court below. Aggrieved by the same, the petitioner has filed the present petition to quash the proceedings.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the first respondent.

5. The final report has been laid for an offence under Sections 420, 323, 506(ii) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. On reading of the FIR, no offence is made out against the petitioner under section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 as against the petitioner. Therefore, the charge under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act against the petitioner is unsustainable.

6. In order to maintain the charge under Section 420 of IPC, there must be a deception played against the second respondent right from the



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inception. Even if the allegations made in the final report along with the statement recorded under Section 161 Cr.P.C. is taken as it is, no offence under Section 420 of IPC is made out against the petitioner.

7. The next charge that has been made against petitioner is for an offence under Section 323 of IPC. In order to establish the said offence, the ingredients of Sections 319 and 321 of IPC must be satisfied. In short, there must be an intention to cause 'hurt' or 'voluntarily causing hurt'. In the case on hand, even if the allegations are taken to be true, there is absolutely no material to establish that the second respondent had suffered 'hurt'. No doctor has been examined in the course of investigation and no medical certificate has been produced to substantiate that the second respondent suffered hurt in the hands of the petitioner. Therefore, this charge is also not sustainable against the petitioner.

8. Insofar as the charge under Section 506(ii) of IPC is concerned, it is now settled that 'empty threat' without there being any overt act on the part of the accused can never satisfy the requirements of criminal



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intimidation. In the present case, the allegations made against the petitioner are completely vague and there are no supporting materials to sustain the charge under Section 506(ii) of IPC.

9. In view of the above discussions, this Criminal Original Petition is allowed and the proceedings in C.C.No.245 of 2017 on the file of the Additional (Mahila Court) Metropolitan Magistrate, Allikulam, (Egmore), Chennai, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

10.10.2023.

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
apd/sma

To

1. Additional (Mahila Court) Metropolitan Magistrate, (Allikulam)
Egmore, Chennai
2. The Inspector of Police,
W1 All Women Police Station,
Thousand Lights, Chennai District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

sma

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