



WEB COPY



Crl.O.P.No.8205 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

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

CRL.O.P.No.8205 of 2021 and
Crl.MP.No.5415 of 2021

Poomozhi

... Petitioner

Vs.

1.The State,
Rep. By the Inspector of Police,
Kitchipalayam Police Station,
Salem District

2.Harini

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to SC.No.119 of 2021 pending on the file of the Principal District Court at Salem and to quash the same by allowing the present criminal original petition.

For Petitioner : Mr.R.Jayaprakash

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : Mr.M.Mohamed Saifulla

ORDER

This criminal original petition has been filed to quash the proceedings in SC.No.119 of 2021 pending on the file of the Principal District



Crl.O.P.No.8205 of 2021

Court at Salem, taken cognizance for the offences under Sections 363, 294(b), 323, 343, 506(2), 307 of IPC & Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002 as against the petitioner.

2. The case of the prosecution is that there was a money dispute between the 2nd respondent's husband and the petitioner. Hence on 12.03.2020, the 2nd respondent's husband had left to Salem to meet the petitioner. On 13.03.2020, the 2nd respondent had left to Salem since she received a phone call from the petitioner stating that he would be coming to her home with 10 persons if her husband does not come to meet the petitioner. Further on 13.03.2020 at about 1.30 p.m., the 2nd respondent came to Salem and the petitioner had detained her in his house at Narayana Nagar, Kitchipalayam. Further, the petitioner abused the 2nd respondent in filthy words and attacked her with scissors with an intention to kill her when her family members tried to rescue her. Hence, the second respondent had lodged a complaint before the 1st respondent on 19.03.2020 and the same was registered in Crime No. 187 of 2020 dated 19.03.2020 for the alleged offence under Sections 363, 294 (b), 323, 343, 506 (ii) and 307 of Indian Penal Code, 1860 and Section 4 of TN Prohibition of Harassment of Women Act, 2002 and



Crl.O.P.No.8205 of 2021

the petitioner is arrayed as sole accused.

WEB COPY

3. Heard, the learned counsel appearing on either side.

4. After completion of investigation, the first respondent filed final report and the same has been taken cognizance by the trial court. The petitioner is the sole accused. On the date of registration of FIR itself, the petitioner was arrested and remanded to judicial custody. Even according to the second respondent, the occurrence took place on 16.03.2020. Whereas the complaint was lodged only on 19.03.2020. As per the complaint, she enquired with the petitioner as to whereabouts of her husband since already there was a money transaction between the petitioner and her husband. Immediately, the petitioner replied that unless she comes to his house, he will come to her house with ten persons. Therefore, the second respondent had visited the house of the petitioner. Thereafter, she was wrongfully confined by the petitioner and it was informed to her mother and relatives. On 16.03.2020, her mother, paternal uncle and his wife came to the house of the petitioner to rescue her. At that juncture, the petitioner attacked her with scissors and caused injury on her left wrist. He also scolded her with filthy languages and threatened her with dire



Crl.O.P.No.8205 of 2021

consequences. Even then, the second respondent lodged no complaint on that

day i.e. 16.03.2020. She is a resident of Shrirangam, Trichy District. Therefore,

she went to Trichy and thereafter on 19.03.2020, once again she visited Salem and lodged the complaint before the first respondent. The first respondent without even conducting any enquiry, mechanically issued memo and referred the second respondent to Government Hospital, Salem. She appeared before the duty doctor and the doctor opined that the injury sustained by the second respondent is simple in nature. She stated before the doctor that she was attacked by one known person. She never whispered that she was wrongfully confined by a known person and when other relatives rescued her, the said person attacked her. Though it was a belated complaint, there was absolutely no explanation from the second respondent. The alleged occurrence had taken place on 16.03.2020 and the complaint was lodged only on 19.03.2020.

5. On perusal of records also revealed that there was a money transaction between the petitioner and the husband of the second respondent. In order to settle the amount for the purchase of yarn from the petitioner vide invoice No.013 dated 07.12.2018, the second respondent issued cheque for a sum of Rs.27,40,500/-. It was presented for collection and the same was



Crl.O.P.No.8205 of 2021

returned dishonoured for the reason 'funds insufficient'. Therefore, the petitioner had initiated proceedings under Section 138 of NI Act and it is pending for trial in STC.No.2907 of 2020 on the file of the Judicial Magistrate-I, Salem as against the husband of the second respondent herein. In fact, on perusal of the reply notice sent by the second respondent dated 17.09.2020, she stated that it is an usual practice of the second respondent to carry a cheque book, xerox copies of Aadhar card, Pan card, SB Account passbook and photos of herself and her husband. While she was in house arrest by the petitioner, the petitioner kept a broken bottle on her neck and threatened to kill her if she is not handing over the cheque book, xerox copies of aadhar card, Pan card, bank passbook, photos of herself and her husband. Therefore, she handed over eight cheque leaves while she was under house arrest. However, the second respondent did not even whisper those allegations in the complaint lodged by her on 19.03.2020.

6. That apart, no prudent person would keep quiet without lodging any complaint while rescued from the wrongful confinement. Even according to the second respondent, she was wrongfully confined by the petitioner from 13.03.2020. She was rescued by her mother, paternal uncle and his wife on



Crl.O.P.No.8205 of 2021

16.03.2020. However, the second respondent failed to lodge any complaint on 16.03.2020 though she was accompanied by her mother and other two relatives. Further, the petitioner is living with her wife and two female children. According to the second respondent, she was wrongfully confined in the house of the petitioner. Even then, the first respondent did not even enquire any family member of the petitioner herein. Only one person was examined who is doing ironing in front of the house of the petitioner. He deposed that he had seen that on 13.03.2020, the petitioner dragged the second respondent into his house and thereafter on 16.03.2020, the second respondent was rescued by her family members. Even then, the said person did not lodge any complaint on 13.03.2020 even after seeing that the petitioner dragged the second respondent by holding her hands into his house. Therefore, all the allegations are cooked up only to drag the petitioner into this case. Further, in order to escape from the other liabilities, the petitioner has been now booked for false charges under Sections 363, 294 (b), 323, 343, 506 (ii) and 307 of Indian Penal Code, 1860 and Section 4 of TN Prohibition of Harassment of Women Act, 2002.

7. On perusal of the charge sheet also revealed that the petitioner involved in so many cases and he is a history sheeter. Those details are nothing



Crl.O.P.No.8205 of 2021

to do with the present case and the first respondent does not need to state those details in the final report. Therefore, it is clearly revealed that only to rope the petitioner into a false case, the present proceedings has been initiated as against the petitioner. In fact, the second respondent on her own, went to the house of the petitioner and there can be no allegation that she was kidnapped and wrongfully confined by the petitioner. As such, the entire proceedings is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

8. Accordingly, the entire proceedings in SC.No.119 of 2021 pending on the file of the Principal District Court at Salem is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

11.10.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

lok



WEB COPY



Crl.O.P.No.8205 of 2021

G.K.ILANTHIRAIYAN, J.

lok

To

- 1.The Principal District Court at Salem
- 2.Inspector of Police,
Kitchipalayam Police Station,
Salem District
- 3.The Government Advocate,
High Court of Madras

CRL.O.P.No.8205 of 2021

11.10.2023