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Crl.O.P.No.8133 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM:

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

Crl.O.P.No.8133 of 2021

and

Crl.M.P.No.5359 of 2021

P.G.Binesh

.... Petitioner

Vs

1. The State rep. by
The Inspector of Police (L & O),
C-4, Rathnapuri Police Station,
Coimbatore.

2. Manju Menon

.... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.10667 of 2021 on the file of the Judicial Magistrate No.II, Coimbatore and quash the same.

For Petitioner

: Mr.P.G.Santhosh Kumar

For R1

: Mr.A.Gopinath
Government Advocate (Crl.Side)

For R2

: No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.10667 of 2021 on the file of the Judicial Magistrate No.II, Coimbatore.

2. The second respondent lodged a complaint alleging that the petitioner had sent an e-mail to the defacto complainant HR Manager with obscenities and profanity which was outraging her modesty. Another e-mail was also sent to the second respondent, thereby he damaged her character assassinating her morality, linking her with a few men. Hence, the complaint.

3. On receipt of the complaint, the first respondent registered FIR in Crime No.953 of 2019 for the offences under Sections 509 and 506(ii) of IPC and under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.10667 of 2021 on the file of the Chief Judicial Magistrate, Coimbatore.



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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent. Though notice has been served on the second respondent, there is no representation for the second respondent either in person or through counsel.

5. The petitioner and the second respondent are husband and wife. They got married on 10.07.2010. Out of the wedlock, they gave birth to a male child. Thereafter, they had misunderstanding and as such, the second respondent left the matrimonial home. In fact, the male child is in the custody of the petitioner herein. Thereafter, both mutually filed divorce petition before the Principal Judge, Principal Family Court, Coimbatore in HMOP No.693 of 2019 and the same was decreed by a Judgment and Decree dated 24.09.2019 thereby dissolving the marriage solemnized between the petitioner and the second respondent on 10.07.2010. The second respondent filed complaint on 16.10.2019 alleging that the petitioner had sent e-mail to her HR Manager.



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6. On perusal of the records, the first respondent says the e-mail was dated 13.10.2019, whereas, the charge says the e-mail was dated 16.10.2019. That apart, the allegations are also bald and vague and there is no specific allegation as against the petitioner to attract the offence under Sections 509 and 506(ii) of IPC and under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

7. Insofar as the offence under Section 506(ii) of I.P.C is concerned, threat should be a real one and not just a mere words when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Whereas, in the case on hand, there is no averment to attract the offence under Section 506(ii) of I.P.C. Therefore, no offence is made out against the petitioner. The entire proceedings is nothing but a clear abuse of process of law and it is liable to be quashed.

8. In view of the above discussion, the proceedings in C.C.No.10667 of 2021 on the file of the Judicial Magistrate No.II,



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Coimbatore, is hereby quashed. Accordingly, this Criminal Original
Petition stands allowed. Consequently, connected miscellaneous petition
is closed.

18.10.2023

Internet: Yes

Index : Yes/No

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To

1. The Judicial Magistrate No.II,
Coimbatore.

2. The Inspector of Police (L & O),
C-4, Rathnapuri Police Station,
Coimbatore.

3. The Public Prosecutor,
High Court, Madras.



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