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CrI.O.P.No.13169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.13169 of 2023 and
CrI.M.P.Nos.7988 & 7989 of 2023

A.Sakthivel

...Petitioner

Vs.

1.The State represented by
The Inspector of Police,
T-12, Poonamallee Police Station,
Avadi Commissionerate,
Avadi, Chennai – 600 054.

2.S.Chandralekha

...Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records relating to C.C.No.198 of 2020 pending on the file of the learned Judicial Magistrate – II, Poonamallee, Thiruvallur District and quash the same.

For Petitioner : Mr.G.Viswanathan

For Respondents :Mr.Leonard Arul Joseph Selvam
Government Advocate (crl.side)
(For R1)



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ORDER

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This Criminal Original Petition has been filed to call for the records relating to C.C.No.198 of 2020 pending on the file of the learned Judicial Magistrate – II, Poonamallee, Thiruvallur District and quash the same.

2.The learned counsel for the petitioner submitted that petitioner is the husband of the second respondent/defacto-complainant. The matrimonial life between the petitioner and the second respondent was not cordial. Petitioner filed H.M.O.P.No.455 of 2018 on the file of the learned Sub Judge, Poonamallee, seeking divorce against the second respondent. When the proceeding is pending, the second respondent gave a false complaint alleging that she was beaten by petitioner, scolded and abused in filthy language. The allegations made in the First Information Report are totally false. There are vast contradictions with regard to the manner in which second respondent suffered injury. Therefore, prosecution of the petitioner in a false criminal complaint is abuse of process of Court. Thus, this petition is filed.



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3.In response, the learned Government Advocate (Criminal side) submitted that the First Information Report allegations and the statement of witnesses support the case of the prosecution that second respondent was beaten by the petitioner and caused grievous injury. There are materials available for framing charges and trial.

4.Considered the rival submissions and perused the records.

5.First Information Report allegations show that petitioner was addicted to drinking alcohol and has illegal connection with several women. He used to harass the second respondent. Though, the petitioner and second respondent were living in a house but they are not in talking terms. On 03.09.2018 at about 10.30 p.m. petitioner said to have insisted the second respondent to sign in a divorce document and abused her in filthy language. He also attacked her with his hand on her mouth, torn her clothes and made criminal intimidation using knife. Therefore, she gave complaint and First Information Report was registered for the offences



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under Section 294 (b), 323 and 506 (2) I.P.C and Section 4 TN Prohibition of Harassment of Woman Act, 2002. After investigation, final report was also filed. The case is now pending in C.C.No.198 of 2020 on the file of learned Judicial Magistrate No.II, Poonamallee. The second respondent reiterated the compliant allegations in her statement.

6.Of course, there is a contradiction in statement and the information provided to the doctor as to the manner in which she was attacked and weapon used for attacking her. In the statement, she stated that she was beaten by her husband with his hand and threatened with knife, but wrongly stated before the Doctor that her husband attacked her with knife. True, it is that this is a contradiction however, this contradiction is clarified in a statement. The fact remains that whether she was attacked with hand or knife, she suffered a grievous injury. Therefore, there is valid illegal material available to show that second respondent suffered grievous injury in the attack made by petitioner. Her statement is supported by statement of other witnesses. Therefore, this Court finds that there are materials produced before this Court for forming an opinion and for presuming that



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petitioner committed the offences alleged in the final report. Therefore,

this Court finds there is no merits in the prayer seeking quashment of proceedings in C.C.No.198 of 2020 pending on the file of the learned Judicial Magistrate – II, Poonamallee, Thiruvallur District.

7.Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are closed.

13.06.2023

Index: Yes/No

Speaking/Non speaking order

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G.CHANDRASEKHARAN, J.

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To

- 1.The Judicial Magistrate – II,
Poonamallee, Thiruvallur District.
- 2.The Inspector of Police,
T-12, Poonamallee Police Station,
Avadi Commissionerate,
Avadi, Chennai – 600 054.
- 3.The Public Prosecutor,
High Court, Madras.

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