



Crl.O.P.No.24620 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM:

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

CRL.O.P.No.24620 of 2021 and
Crl.M.P.No.13576 of 2021

1.Patrick
2.Mary Shakila

... Petitioners/A1&2

Vs.

1.The State represented by
The Inspector of Police,
Polur Police Station,
Thiruvannamalai District
(crime No.112 of 2015)
2.B.Vijaya

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in SC.No.133 of 2019 on the file of the learned Fast Track Mahila Court, Tiruvannamalai and to quash the entire proceedings as against the petitioners / A1 & A2 are concerned.

For Petitioners : Mr.A.Mohan

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

For R2 : Mr.A.Murugavel

ORDER



CrI.O.P.No.24620 of 2021

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This criminal original petition has been filed to quash the proceedings in SC.No.133 of 2019 on the file of the learned Fast Track Mahila Court, Tiruvannamalai taken cognizance for the offences under Sections 294(b), 324, 323, 506(ii), 307 of IPC r/w Section 4 of Tamilnadu Prohibition of Women Harassment Act, 2012.

2. The case of the prosecution is that the petitioners and others are neighbours and relatives of the defacto complainant. There was a previous enmity between the Defacto Complainant and the petitioners with regard to land dispute. On 31.03.2015 at about 7.30 a.m., when the Defacto Complainant was cleaning vessels in front of her house, the Petitioners being armed with sickle and knife, abused the Defacto Complainant with filthy language. Further, the 2nd Petitioner attacked the Defacto Complainant with knife, thereby she sustained cut injuries on her two elbows and there was bleeding. One, Lilly and her son one, Stalin also abused the Defacto Complainant. Thereafter, the said Lilly thrashed the Defacto Complainant and her son pushed down the Defacto Complainant by pulling her hair. The Petitioners by showing sickle and knife threatened the Defacto Complainant with dire consequences stating that if she comes forward to create problem with



Crl.O.P.No.24620 of 2021

regard to the land and the channel situated nearby the Petitioners' residence.

The Defacto Complainant was admitted by her husband at Government Hospital, Polur for further treatment and she was referred to the Government Hospital, Vellore. Thereafter, a case was registered in Crime No. 112 of 2015 on the file of the first Respondent / police for the alleged offences under Sections 294 (b), 324, 323, 506 (ii), 307 I.P.C r/w Section 4 of Tamilnadu Prohibition of Women Harassment Act. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in SC.No.133 of 2019 by the trial court.

3. The learned counsel for the petitioners would submit that one of the accused in this case filed a counter complaint for the very same occurrence and the same has been registered in crime No.155 of 2015 for the offences under Sections 147, 341, 294(b), 506(ii) of IPC r/w Section 4 of Tamilnadu Prohibition of Women Harassment Act, 2012. However, without taking any action on the counter complaint, the first respondent completed investigation and filed final report only on the complaint lodged by the second respondent. It is violation of clear violation of the Police Standing Order 588-A.

4. The learned Government Advocate(Crl.side) appearing for the first respondent / police submitted that in crime No.155 of 2015, already



Crl.O.P.No.24620 of 2021

investigation was completed and filed final report before the learned Judicial Magistrate, Polur. However, it was returned for certain compliance.

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

6. It is seen that there are specific allegations as against the petitioners and as such, this Court is not inclined to quash the impugned proceedings. Further, the first respondent / police filed two final reports for the very same occurrence. It is relevant to rely upon the judgement of this Court in the case of *Vellapandy Thevar and Others Vs. State* reported in *1984 L W (Crl) 257*, in which this Court has held that, in case of complaint and counter complaints, the procedure to be followed by the investigating officer is laid down in Order 588A of Madras Police Standing Order. The Investigation Officer has to enquire into both the complaints and find out who were the aggressors and file a charge sheet against them or refer both the cases if he finds them untrue. Where the Investigating Officer find it difficult to choose either of the above courses, he should seek opinion of the Public Prosecutor and act accordingly. The result is there are now two prosecutions in respect of the same occurrence against the opposite parties.

7. On a perusal of the materials available on records, it is evident that in complaint and counter complaints, the Investigation Officer shall follow the



CrI.O.P.No.24620 of 2021

procedure laid down in the Police Standing Order 588-A to find out the real aggressor, whereas in the present case, the first respondent / police found both the parties as aggressors and filed two final reports. When that being so, the trial Court has to follow the procedure laid down by the Hon'ble Supreme Court in the case of ***Nathilal Vs. State of U.P.*** reported in ***(1990) Supp SCC 145***, the relevant portion of which is extracted hereunder:

?We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgement. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgement in that case. The same learned Judge must thereafter dispose of the matters by two separate judgements. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the



Crl.O.P.No.24620 of 2021

*judgements must be pronounced by the same learned Judge
one after the other.?*

8. Therefore, the first respondent is directed to re-present the final report in crime No.155 of 2015 within a period of two weeks from the date of receipt of copy of this order. On receipt of the same, the learned Judicial Magistrate, Polur is directed to take the final report and commit the same before the Fast Track Mahila Court, Tiruvannamalai. Thereafter, the Fast Track Mahila Court, Tiruvannamalai is directed to conduct simultaneous trial in both the cases and the judgment in respect of both the cases must be pronounced one after another.

9. With the above directions, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

13.10.2023

Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
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CrI.O.P.No.24620 of 2021

To

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- 1.The learned Fast Track Mahila Court,
Tiruvannamalai
- 2.The Inspector of Police,
Polur Police Station,
Thiruvannamalai District
- 3.The Government Advocate,
High Court of Madras.

G.K.ILANTHIRAIYAN, J.

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CrI.O.P.No.24620 of 2021

CRL.O.P.No.24620 of 2021

13.10.2023