



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.18685 of 2021

and

Crl.MP.Nos.10271 and 10272 of 2021

R.Velumani @ Danial, M/43 Y

... Petitioner /A2

Vs.

1.State, represented by
The Inspector of Police,
Perundurai Police Station
Erode District.

..1st Respondent/Complainant

Crime No.506 of 2018)

2. S.Sarojini

..2nd Respondent/De facto Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records in connection with C.C.No.47 of 2020, on the file of the learned Judicial Magistrate, Perundurai, Erode District and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.M.Vijayaraghavan

For Respondents

For R1 : Mr.L.Bakaran
Government Advocate (Crl.Side)

For R2 : Mrs.S.Vasovi Sridevi

**ORDER**

This criminal original petition has been filed to quash the proceedings in C.C.No.47 of 2020, on the file of Judicial Magistrate, Perundurai, Erode District.

2.The case of the prosecution is that the 2nd respondent was working under the accused and they are running a marriage information centre in the name and style of 'Sumangali Marriage information centre' at Perundurai for the past one year. She was sexually harassed by the accused and also induced her for prostitution. They also invited her for sexual relationship. The 2nd respondent refused to do the same and as such, she was threatened by the petitioner with dire consequences on 9.9.2018 at about 2.00 pm. Based on the above said complaint of the de facto complainant, the respondent police registered an FIR in Crime No.506 of 2018, for offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 and Section 506(i) of IPC. After completion of investigation, the 1st respondent filed a final report and the same was taken cognizance by the Trial Court in C.C.No.47 of 2020. There are totally two accused, in which, the petitioner has been arrayed as A2.

3.The learned counsel for the petitioner/A-2 submitted that the 2nd respondent was working under the accused and she was was not paid any salary. Therefore, a false compliant has been foisted against them. That apart, she categorically stated that she was living alone and utilising the said situation, the accused persons called her for sexual relationship, whereas, her husband deposed that he is living with the 2nd respondent. Therefore, it is clear that the 2nd respondent foisted a false complaint against the accused. He further submitted that the Trial



Court, without applying its mind, mechanically taken cognizance of the case. In support of his contention, he relied upon the judgement of the Hon'ble Supreme Court in **Sunion Bharti Mittal v. Central Bureau of Investigation** reported in **(2015) 4 SCC 609**, the Hon'ble Supreme Court held as follows:

51. On the other hand, [Section 204](#) of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This Section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under [Section 192](#)), upon a consideration of the materials before him (i.e., the complaint, examination of the complainant and his witnesses if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into Court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words “sufficient grounds for proceeding” appearing in the Section are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect.



4.It is true that while taking cognizance, the Trial Court has stated sufficient grounds for proceeding. However, it relates to only a private complaint and not under the police report. Already, the 1st respondent conducted a detailed investigation and recorded statements from witnesses. Only on sufficient materials on record, the 1st respondent filed a final report and as such, the above judgement is not applicable to the case on hand. It is applicable only to the case of a private complaint. Coming to the case on hand, the Trial Court had taken cognizance only after applying its mind and on perusal of statement recorded u/s.161 Cr.PC., and the final report. That apart, there are specific allegations as against the petitioner, in order to attract the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 and Section 506(i) of IPC.

5.In the light of the above discussion, this Court does not find any grounds to quash the proceedings and accordingly, this quash petition stands dismissed. The Court below is directed to complete the trial in C.C.No.47 of 2020, on the file of Judicial Magistrate, Perundurai, Erode District, within a period of three months from the date of receipt of copy of the order. Consequently, connected miscellaneous petitions are closed.

11.10.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
kp



WEB COPY



To

1. The Inspector of Police,
Perundurai Police Station
Erode District.
2. Judicial Magistrate
Perundurai, Erode District.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY

6



G.K.ILANTHIRAIYAN, J.

kp

Crl.O.P.No.18685 of 2021

11.10.2023