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Crl.O.P.No.277 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

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

Crl.O.P.No.277 of 2022
and Crl.M.P.Nos.104 and 105 of 2022

B.Harikrishnan

...Petitioner

-Vs-

1. State represented by
The Sub-Inspector of Police,
G3, Kilpauk Police Station,
Kilpauk,
Chennai-600 010.

2. Dimpee Bhatia ... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records and quash the C.C.No.18 of 2021 on the file of the Additional Mahila Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner : No appearance

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

For R2 : Mr.R.S.Mangala Kumar



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ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.18 of 2021 on the file of the Additional Mahila Metropolitan Magistrate Court, Egmore, Chennai.

2. There is no representation on behalf of the petitioner. Heard the learned Government Advocate (Crl.side) for the first respondent and the learned counsel for the second respondent and perused the materials available on record.

3. The case of the prosecution is that the accused had acquaintance with the second respondent while he is training in Gym. He fell in love with the second respondent. However, the second respondent is aged more than the first accused and as such, she refused his proposal. Even then, the petitioner used to follow the second respondent and had given torture. He also snatched her mobile phone and downloaded her personal photographs and videographs. Thereafter, he morphed the photographs and videographs and threatened her to love him otherwise, he will post the photographs and videographs in the social media. He also threatened the victim with dire consequences and abused her with filthy language. Hence, the complaint.



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4. On receipt of the complaint, the first respondent registered FIR in Crime No.131 of 2019 for the offences under Sections 354A, 354D, 323 and 506(1) of IPC and 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.18 of 2021, on the file of the Additional Mahila Metropolitan Magistrate Court, Egmore, Chennai.

5. The petitioner raised grounds that for the very same set of allegations, the sister of the second respondent lodged a complaint before the Inspector of Police, E-2, Royapettah Police Station. Therefore, the present proceedings cannot be sustained.

6. A perusal of records revealed that there is only one complaint and after completion of investigation, final report has been filed and the same has been taken cognizance by the Trial Court. A perusal of the charge sheet revealed that there are serious allegations made as against the petitioner and the petitioner had committed very serious offence as against a woman. Therefore, there are averments to bring the charges to home.



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7. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.



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8. Recently, the Hon'ble Supreme Court of India dealing the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central***

Bureau of Invstigation Vs. Arvind Khanna, as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”



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9. Further the Hon'ble Supreme Court of India also held in the order

dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs.**

K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."



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The above judgments are squarely applicable to this case and as such, the points raised by the petitioners are mixed question of facts and it cannot be considered in a quash petition under Section 482 Cr.P.C.

10. The provisions of inherent jurisdiction under Section 482 Cr.P.C can be invoked only to meet out the ends of justice and to prevent the abuse of process of law.

11. In view of the above, this Court is not inclined to quash the proceedings in C.C.No.18 of 2021 on the file of the Additional Mahila Metropolitan Magistrate Court, Egmore, Chennai and this petition is liable to be dismissed. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous petitions are closed.

24.11.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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G.K.ILANTHIRAIYAN, J.



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To

1. The Additional Mahila Metropolitan Magistrate Court,
Egmore, Chennai.
2. The Sub-Inspector of Police,
G3, Kilpauk Police Station,
Kilpauk,
Chennai-600 010.
3. The Public Prosecutor
Madras High Court.

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