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Crl.O.P.No.22201 of 2023
& Crl.M.P.Nos.15435 & 15437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.11.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22201 of 2023
& Crl.M.P.Nos.15435 & 15437 of 2023

M.Silambarasan.

... Petitioner/Accused

/versus/

1. The Inspector of Police,
K-11 C.M.B.T Police Station,
Chennai.
Crime No.374 of 2022.

... Respondent/Complainant

2. Alfina Antony Raj.

... 2nd Respondent/Defacto complainant

Prayer:- Criminal Original Petition is filed under Section 482 of Cr.P.C., pleaded to call for the records relating to C.C.No.16188 of 2022 on the file of the V Metropolitan Magistrate Court at Egmore, Chennai.

For Petitioner : Mr.T.Muruganatham

For R1 : Mr.S.Udaya Kumar.
Govt. Advocate (Crl.Side)

For R2 : No appearance

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ORDER

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This Criminal Original Petition is filed to quash the criminal case pending on the file of V Metropolitan Magistrate, Egmore, in C.C.No.16188 of 2022.

2. The Learned Counsel appearing for the petitioner submitted that, the petitioner was a bonafide passenger travelling from Chennai to Bangalore. He boarded the bus at Guindy and the driver allotted him a vacant seat in which, he occupied. The defacto complainant, who was already occupying the next seat suddenly created hue and cry and objected the conductor of the bus that how they can allot the vacant seat to a male member. In view of the objection, the bus was taken back to Koyambedu Bus Stand and case has been registered against him.

3. Further, the Counsel for the petitioner submitted that, neither in the F.I.R nor in the statement of the complainant, there is any allegation of misbehaviour or harassment. Being perturbed on allotting a vacant seat next to her to a male member, the defacto complainant protested against the crew members and the complaint is also only against the crew members. While so, there is no reason to prosecute him



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for alleged offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act and Section 509 of I.P.C read with 109 I.P.C.

4. This Court, on reading the material relied by the prosecution along with the final report being satisfied that, even if the statement given to the police held to be true, there is no ingredient to fix the petitioner herein for the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment or Section 509 of I.P.C. Hence, this Court directed the petitioner herein to cause private notice to the 2nd respondent/defacto complainant. The private notice was served on 04.11.2023 to the defacto complainant, but there is no representation for the defacto complainant.

5. The Learned Counsel for the petitioner also submitted that the case was listed before the trial Court on 09.11.2023 but the defacto complainant did not appear, summons served for her to appear and give evidence could not be served.

6. The Learned Government Advocate (Crl.Side) for the 1st respondent produced the CD file and fairly considered that, the omni bus left koyambedu Bus Stand along with the passengers towards Bangalore, at Guindy the petitioner herein



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boarded the bus. The defacto complainant, who boarded the bus at Koyambedu Bus Stand was already occupying the window seat, the petitioner was allotted the seat next to the defacto complainant which was vacant, after travelling around 50 kilometers, the defacto complainant woke up and found a male member sitting next to her and therefore, objected the same. Since the issue become very serious, the bus was taken back to Koyambedu Police Station. Neither the co-passenger nor the defacto complainant had said nothing adverse conduct against this petitioner.

7. This Court, after perusing the record find that, the complaint which was only directed against the crew member, who has allotted a seat to a male member next a female passenger and not against the passenger itself. Hence, this Court finds merit in the quash petition. Accordingly, the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

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Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order
bsm

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Copy to:-

1. The V Metropolitan Magistrate Court at Egmore, Chennai.
2. The Inspector of Police, K-11 C.M.B.T Police Station,
Chennai.
3. The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN, J.

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