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Crl.O.P No.26855 of 2019 and batc...



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.26855, 26868, 26870, 26875, 26877, 26910, 26913, 26858,
26915, 26917, 26918, 26921 & 26923 of 2019
and Crl.M.P. Nos.14311, 14312, 14314, 14322, 14323, 14324, 14353,
14355, 14357, 14358, 14359, 14360, 14362 of 2019

Crl.O.P. No.26855 of 2019
and Crl.M.P. No.14311 of 2019

T.Mohammed Kaleem

... Petitioner

Vs.

1. The State represented by its
Inspector of Police,
All Women Police Station,
Tambaram, Chennai.
(Cr. No.28/2019)

... first respondent/complainant

2. Eswari

... second respondent / defacto complainant

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records culminated in FIR in Crime No.28 of 2019 dated 19.09.2019 on the file of first respondent and quash the same.



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For Petitioner : Mr.R.Prabhakaran

For Respondent-1 : Mr.A.Gopinath
Government Advocate
R2 : Mr.Baskar

COMMON ORDER

These petitions have been filed to call for the records culminated in FIR in Crime No.28 of 2019 dated 19.09.2019 on the file of first respondent and quash the same.

2. The petitioner in all these petitions are the named accused in the case in Cr. No.28 of 2019 on the file of the first respondent. When the matter is taken up today, there is no representation for the second respondent.

3. The case of the prosecution as it appears from the complaint is that when the second respondent / defacto complainant's daughter was studying in 11th Standard at Government Higher Secondary School, Anagaputhur, one of the faculty by name Kirubananadan joining with one Muralidaran, the President of Parent-Teacher Association of the said school, misused the children for achieving their personal scores and they



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instigated the students to commit violence in the school and destroy the school properties. On 09.08.2019 free laptops were issued to the students but the same was not issued to the second respondent's daughter. After the second respondent had given a complaint in this regard, a laptop was given to the second respondent's daughter. However, at the instigation of the said Muralidharan, the petitioners along with some students started to harass the second respondent's daughter by calling her 'Spy'. On 04.09.2019 more than ten students surrounded the second respondent's daughter and abused her in filthy language and threatened her that they would throw acid on her. The second respondent's daughter was threatened that she should not attend school thereafter. Based on these allegations the second respondent has given a complaint and on which a case has been registered in Cr. No.28/2019 for the offences under Section 12 of Protection of Child from Sexual Offences Act, 2012, Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, Section 67 A & 67 B of Information Technology Act, 2000, 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act and Section 192, 109, 294(b), 506(1), 354 A, 147 & 509 IPC.



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4. The learned counsel for the petitioners submitted that the complaint is a motivated one and the petitioners have been unnecessarily implicated as accused in this case; the second respondent assumed the role of President of Parent-Teacher's association and with that motive he has given the complaint; in an enquiry conducted by the Headmaster of the School, it came to be known that the whole problem had arisen due to the non-issuance of the laptop to the second respondent's daughter; the result of the internal enquiry has been sent to the District Education Officer and that would show that the complaint is a false one; since the students are made as an accused in a criminal case their future will be affected and hence the proceedings should be quashed.

5. The learned Government Advocate submitted that in view of the stay granted, investigation could not be proceeded; the internal enquiry is made by a person who is also made as an accused; only if investigation allowed to be done, the real facts can be brought to light; on the face of it the complaint makes out a criminal case and hence these petitions should be dismissed.



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6. On perusal of records, it is seen that the second respondent had given a complaint by making various allegations against the staff that they misused the children to settle their personal scores. It is further stated that due to misguidance of some of the staff members, the students were treated in a biased manner and as an offshoot the second respondent's daughter was not given with the free laptop; since the second respondent has given a complaint about the non-issuance of the laptop to his daughter, she has been given with a laptop subsequently.

7. The learned counsel for the petitioners submitted that the motive for the complaint is non-issuance of laptop to the second respondent's daughter. But it is not known why the issuance of laptop was withheld for the second respondent's daughter when all other students were given with laptop. Only after the second respondent has given the complaint, the laptop was given to the second respondent's daughter.

8. The internal enquiry report does not form part of the records. Unless it has been produced to the Investigation Officer and he had taken into consideration for the investigation, the facts about the same cannot



be dealt by this Court. From the alleged enquiry report furnished by the petitioner, it is seen that the Headmaster incharge by name Mohamed Kaleem had submitted the report of the internal enquiry to District Education Officer. But in the complaint the name of the said Mohamed Kaleem is also mentioned.

9. Though it is a matter of concern that students should not be tightened with any criminality, it is equally a matter of concern that the students should not be misused or misguided by the faculty members for the purpose of achieving their personal interests. The facts presented by the learned counsel for the petitioners are all the matters to be investigated and at the threshold stage this Court cannot conduct a mini trial by making roving enquiry about the facts. Unless a thorough investigation is conducted, the real background for the occurrence and the details of the occurrence cannot be brought to light.

10. However, the petitioners are at liberty to produce the internal enquiry report if any and any other materials collected in this regard for the scrutiny of the Investigation Officer. Only if the Investigation Officer



collects the other materials, documents and statements from the relevant persons the truth can be explored.

11. Since the case involves the interest of students, the Investigation Officer shall be sensitive enough to deal with the matter with all fairness and complete the enquiry and file the final report within a period of two months from the date of receipt of a copy of this order.

12. With the above direction, these Criminal Original Petitions are disposed. Connected miscellaneous petitions are closed.

30.01.2023

Index : Yes/No
Speaking Order : Yes / No
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To:

1. The Inspector of Police,
All Women Police Station,
Tambaram, Chennai.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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