



WEB COPY



CRL.O.P.No. 28851 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

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

Crl.O.P.No. 28851 of 2019
and Crl.M.P.Nos. 15405 and 15406 of 2019

Santhosh

... Petitioner

Vs.

1. The State,
Rep. By the Inspector of Police,
Railway Police Station,
Central, Chennai.
Crime No.462 of 2019

2. R.Alamelu

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.1541 of 2019 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioner : Mr.S.Jeeva

For Respondents

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

For R2 : Mr.I.Calvin Jones for
Mr.S.Nambi Arooran



CRL.O.P.No. 28851 of 2019

George Town, Chennai for the offence under Sections 509, 354 of IPC read with

Section 4 of TNPHW Act

3. Heard both sides and perused the records. On perusal of the records, it revealed that there are independent witnesses and they were examined as LW 2 and 3. They categorically deposed that, second respondent was abused by the petitioner without issuing return ticket. He also abused the second respondent in front of the general public. Though, 2nd respondent begged that, she had no other money, petitioner refused to issue return ticket. Thus, there are specific allegations as against the petitioner to charge him for the offence under under Sections 354, 509 of I.P.C read with Section 4 of TNPHW Act.

4. 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



CRL.O.P.No. 28851 of 2019

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.

5. Recently, the Hon'ble Supreme Court of India dealing in respect of 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***, wherein, it has been held 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



CRL.O.P.No. 28851 of 2019

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.”

6. 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....."

7.The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

8. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.1541 of 2019 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai as against the petitioner.



WEB COPY



CRL.O.P.No. 28851 of 2019

9. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petitions are closed.

06.10.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

Sma/Apd

To

1. XVI Metropolitan Magistrate,
George Town, Chennai

2. The Inspector of Police,
Railway Police Station,
Central, Chennai.

3. The Public Prosecutor
Madras High Court.



WEB COPY



CRL.O.P.No. 28851 of 2019

G.K.ILANTHIRAIYAN, J.

Sma

Crl.O.P.No. 28851 of 2019
and Crl.M.P.Nos. 15405 and 15406 of 2019

06.10.2023