



Crl.O.P.No.25659 of 2023
& Crl.M.P.Nos.17801 & 17800 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.11.2023

Pronounced on: 16.11.2023

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25659 of 2023
& Crl.M.P.Nos.17801 & 17800 of 2023

M.G.Ashok

... Petitioner/3rd Accused

/versus/

1. The State Represented by,
The Inspector of Police,
W-32, All Women Police Station,
Madipakkam,
Chennai – 600 117.

... 1st Respondent/Complainant

2. P.Selvi

... 2nd Respondent/defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
pleaded to call for the records and quash the proceedings pending in Special
S.C.No.174 of 2023 on the file of the Special Court for Exclusive Trial Cases
under POCSO Act at Chengalpattu for offences under Sections 451, 323, 506
(1) of I.P.C and Section 9(l) r/w 10 & Section 11 (iii) r/w 12 of Protection of
Children from Sexual offences Act 2012.

For Petitioner : Mr.V.Raghavachari, Senior Counsel
for Mr.C.Arun Kumar.
For R1 : Mr.S.Udaya Kumar,
Govt. Advocate (Crl.Side)



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ORDER

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The petitioner herein is the third accused in Special S.C.No.174 of 2023 in Crime No.4/2021 which was investigated by ST.Thomas Mount Police and final report filed for the offences under Sections 9(n), (l), 10, 11(3), 12 and 17 of POCSO Act, Section 294 (b), 506(1), 451, 323 of I.P.C.

2. As per the averments in the quash petition, the petitioner is an Advocate by Profession and one Veera Barathi Devi is his client. The said Veera Bharathi Devi and her husband Boopalamurgan are not in terms. The Divorce petition initiated by Boopalamurugan is pending. While so, Mrs.Veera Bharathi Devi, had initiated a case against Boopalamurugan for abusing her father and another case of sexual abuse of her minor daughter by her husband Boopalamurugan and one Angayarkannan, who is the brother in law of Boopalamurgan. In all these cases, the petitioner states that, as a Professional, he rendered his professional service to his client Veera Bharathi Devi.

3. To counter blast, the criminal cases initiated against them, a false complaint through one Selvi W/o.Parthiban lodged on 31/07/2021. In the said complaint, initially allegations were only against Veera Bharathi Devi and



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her brother Vimalraj. However, to pre-empt the petitioner from rendering his Professional service to Veera Bharathi Devi, after two months of registering the complaint while recording the statement of the victim girl under Section 164 of Cr.P.C., the name of the petitioner was also included as if he along with other accused on 16/02/2021, 15/03/2021 and 26/07/2021 went to the house of the victim girl with criminal intention and sexually assaulted her.

4. The petitioner contends that the F.I.R dated 31/07/2021 is only against Veera Bharathi Devi and her brother Vimalraj. As Counsel for Veera Bharathi Devi, he was actively pursuing the complaints against Boopalamurugan and his brother in law Angayarkannan. Therefore, Angayarkannan through his sister Selvi had spin the story as if the minor girl child of Selvi been sexually abused by Vimalraj (brother of Veera Bharathi Devi) and Advocate M.G.Ashok (petitioner herein) at the instigation of Veera Bharathi Devi.

5. The Learned Senior Counsel appearing for the petitioner submitted that this is a clear case of malicious prosecution to stifle the legal assistance rendered by a professional. Being a case manifestly frivolous



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instituted with ulterior motive to wreak vengeance, the petitioner should not suffer the ordeal of vexatious litigation.

6. According to the Learned Counsel, Mrs.Selvi the complaint in Crime No.4 of 2021 is none other than the sister of Ankayarkannan. The said Ankayarkannan is the husband of Kalaivani, who is the sister of Boopalamurugan. Mrs.Selvi's complaint is dated 30/07/2021 taken up for investigation on 31/07/2021. The statement of the victim girl under section 164 of Cr.P.C was recorded on 13/09/2021, after 43 days from the complaint. By that time, the allegation been not only embellished but also the petitioner been roped in as one of the accused for the only reason that, he was helping Veera Bharathi Devi.

7. The criminal complaint against Ankayarkannan and Boopalamurgan for sexually abusing the daughter of Veera Bharathi Devi is earlier in point of time. It was given before the AWPS, Tambaram on 17/02/2021 and was pending as C.S.R.No.62/2021. Since F.I.R was not registered on that complaint, he filed petition under Section 156(3) Cr.P.C on behalf of Veera Bharathi Devi and sought the POCSO Court intervention to



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issue direction to the AWPS, Tambaram, to register F.I.R and investigation.

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Thereafter, the complaint against Boopalamurugan and Angayarkannan was registered in Crime No.24/2021 on 17/11/2021. After recording the statement of the victim, final report filed on 28/08/2023 before the Special Court for POCSO cases at Chengalpet and same was taken on file as Special S.C No.142/2023. The inclusion of the petitioner name in the statement of the victim recorded under Section 164 of Cr.P.C belatedly after registering the complaint is clear abuse of process of law.

8. Relying on the observation made by the Hon'ble Supreme Court in ***Iqbal @ Bala and others -vs- State of Uttar Pradesh and Others*** reported in **2023 (8) SCC 734**, the Learned Senior Counsel for the petitioner submitted that the case against the petitioner has to be quashed being a malicious prosecution to wreck vengeance out of personal grudge.

“11. In frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The



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Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

9. Though superficially the facts of the case appears to be a matrimonial dispute between Veera Bharathi Devi and her husband Boopala Murugan, however the details found in the statement of witnesses, particularly the victim children discloses, it is not a pure matrimonial dispute but sexual abuse of minor children by their own family members. Two school going girl children have given statements before the Judicial Magistrate, how the elder members in the family had sexually abused them. The said atrocity might have been silently buried and there was no fight in between the spouse and their relatives. Though, this petitioner is not a family member, he had been actively



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involved in assisting one side. His visits to the victim's house with other accused and sexual assault as found in the child statement cannot be brushed aside as false at this juncture.

10. Either the statement of the child must be true or the elder must be using the child as pawn to settle their dispute. Without testing the statements on oath and cross examination by the adversary, the Hon'ble High Court under Section 482 of the Code, cannot venture to arrive at a conclusion summarily.

11. Accordingly, this ***Criminal Original Petition is dismissed.*** The reasoning and observations in this order are only for the purpose of deciding the application for quash and shall not be prejudicially used against the petitioner by the trial Court while deciding the case finally. Consequently, connected Miscellaneous Petitions are closed.

16.11.2023

Index :Yes/No.
Internet :Yes/No.
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1. The Special Court for Exclusive Trial Cases under POCSO Act at Chengalpattu.
2. The Inspector of Police, W-32, All Women Police Station, Madipakkam, Chennai – 600 117.
3. The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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Delivery order made in
CrI.O.P.No.25659 of 2023

16.11.2023