



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.858 of 2023

Mrs.B.Bernard Dorothy Josaian

... Petitioner

Vs.

The State,
Represented by the Inspector of Police (L&O)
Neravy Police Station, Karaikal.

2.Jeevamani

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records to quash the impugned charge sheet dated 18.08.2021 and proceedings in the file of the Additional District Munsif-cum-Judicial Magistrate, Karaikal in pursuance of charge sheet dated 18.08.2021 in STC.No.474 of 2021 against the petitioner for the offence under Section 323 of IPC.

For Petitioner : Mr.P.Munuswamy

For Respondent : Mr.V.Balamurugane

Government Advocate (Puducherry) for R1.



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ORDER

This Criminal Original Petition is filed to call for the records to quash the impugned charge sheet dated 18.08.2021 and proceedings in the file of the Additional District Munsif-cum-Judicial Magistrate, Karaikal in pursuance of charge sheet dated 18.08.2021 in STC.No.474 of 2021.

2. The learned counsel for the petitioner would submit that there was a previous enmity between the petitioner and the defacto complainant. In this regard, the petitioner has given a complaint against the defacto complainant on 02.02.2019 and no action was taken on the complaint given by the petitioner. That being so, the present complaint was given with a false allegations. He would further submit that the alleged incident had happened on 17.04.2021 at 11.00hrs at the veranda of the ONGC Public School, Neravy, Karaikal, but the complaint was given on 29.07.2021, after a period more than three months from the date of incident. That apart, if the alleged incident had happened inside the school premises, that too during the working hours, it would have been recorded in the CCTV and no CCTV footage has been produced in this case. On these reasons, the learned counsel for the petitioner prays to quash the proceedings.



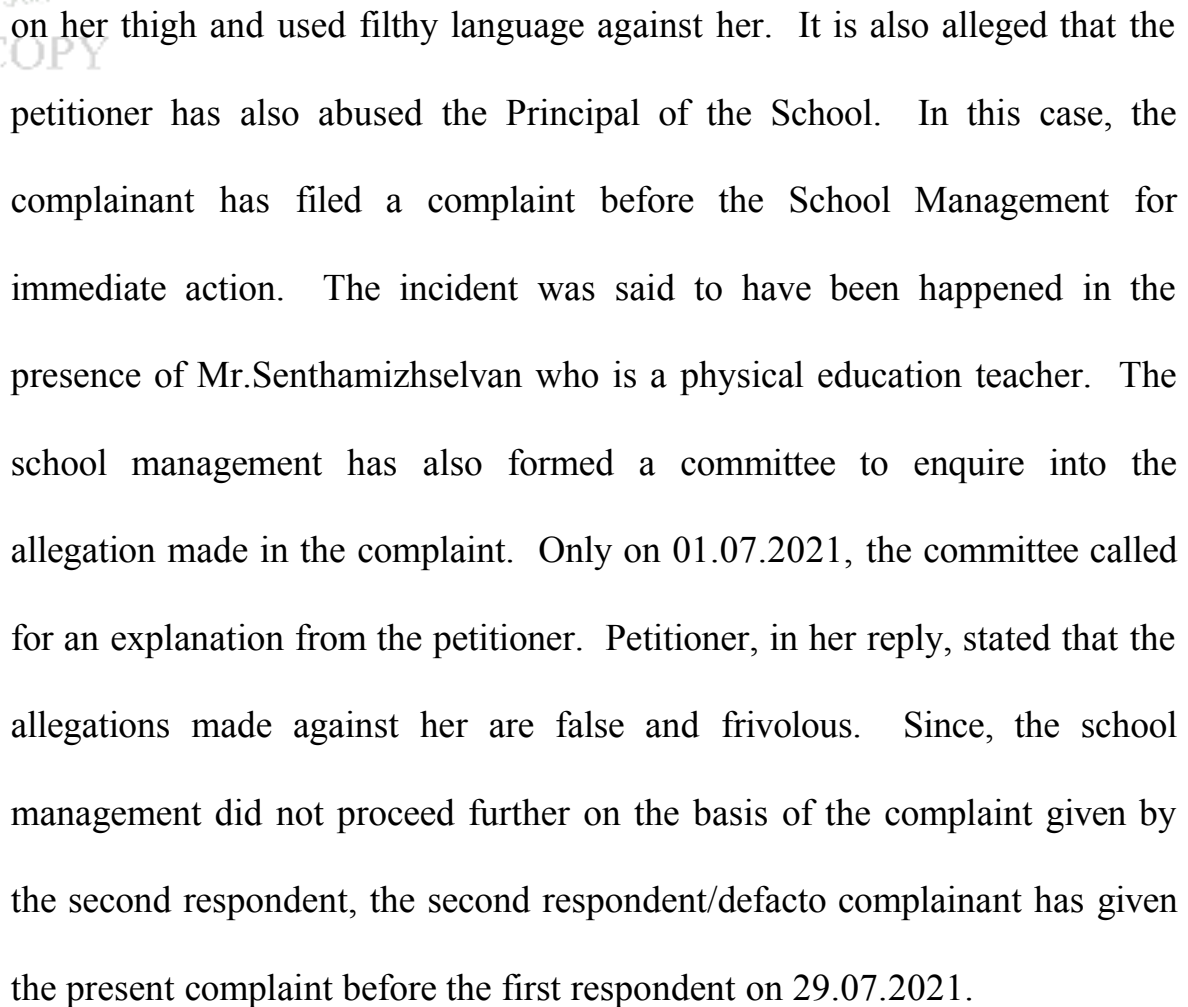
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3. The learned Government Advocate (crl.side) submits that the previous enmity between the petitioner and the defacto complainant has nothing to do with this case for the incident happened on 17.04.2021. The second respondent/defacto complainant has given a complaint to the school Management. The School management has not taken any effective action, despite waiting for a period of three months. Hence, the complaint was given to the respondent/police on 29.07.2021.

4. That apart, from the statement of the second respondent/defacto complainant that another eye-witness who is a physical education teacher Mr.Senthamizhselvan substantiated the case of the prosecution.

5. Considered the rival submissions made on both sides and perused the materials available on record.

6. The allegations made in the FIR and the final report show that on 17.04.2021 at 11.00hrs at the veranda of the ONGC Public School, Neravy, Karaikal, the petitioner stated to have kicked the second respondent



7. The second respondent had reiterated the allegations made in the complaint, in her statement. It was supported by the eye-witness Mr.Senthamizhselvan who is a physical education teacher working in the same school.



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8. On a perusal of records, prima facie case is made out as against the petitioner for prosecuting her for the offence under Section 323 IPC. The defence raised by the petitioner shall be placed before the trial Court. It is for the trial Court to take a decision on the basis of the evidence produced. While sitting on 482 Cr.PC, this Court cannot conduct a roving enquiry against the allegations and the counter allegations made against each other. This Court finds that there is no merits in the petition to quash the proceedings/charge sheet dated 18.08.2021 on the file of the Additional District Munsif-cum-Judicial Magistrate, Karaikal in STC.No.474 of 2021.

9. Accordingly, this criminal original petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

19.01.2023

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Internet : Yes/No
Index : Yes/No
Speaking/Non Speaking Order



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G.CHANDRASEKHARAN, J.,

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To

1. The Additional District Munsif-cum-Judicial Magistrate, Karaikal
2. The Inspector of Police (L&O)
Neravy Police Station, Karaikal
3. The Public Prosecutor,
High Court of Madras.

Crl.OP.No.858 of 2023

19.01.2023.