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Crl.OP.No.32651 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32651 of 2022

- 1.Deena
- 2.Moses @ Kalaiarasan
- 3.R.Kamalakumar
- 4.Sibi @ Nova Inbaraj
- 5.Salomon @ Chinnathambi

Vs.

... Petitioners

- 1.The State of Tamil Nadu,
represented by the Inspector of Police,
W-6, Aynavaram AWPS,
Chennai – 23.

- 2.S.Anushiya

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in pursuant to the FIR in Crime No.8 of 2022, for the offences punishable under Sections 294(b), 323 of IPC read with 8 and 12 of POCSO Act 2012 registered on 07.11.2022 at 7.30 PM in W.6 Ayanavaram AWPS, there is no merits in the fake FIR under colour of POCSO Act provisions at the hands of respondent police and quash the same against the petitioners.



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For Petitioner : Mr.A.Thanigaivel

For R-1 : Mr.S.Santhosh
Government Advocate (Criminal Side)

ORDER

The Criminal Original Petition is filed for quashing the First Information Report in Crime No.8 of 2022 on the file of the Inspector of Police, W-6, Aynavaram AWPS, Chennai – 23.

2. The learned counsel for the petitioners submitted that the First Information Report in Crime No.8 of 2022 for the offences under Sections 294(b), 323 of IPC and 8 and 12 of POCSO Act, 2012 was registered against the petitioners only as a counter blast for the registration of CSR.No.500 of 2022, on the basis of the complaint given by one Kamali. He further submitted that in the First Information Report, there is no specific mention as to what is the time of the alleged incident, whether it is 3.30 am or 3.30 pm. There is absolutely no materials for registering the First Information Report under POCSO Act. He further submitted that one Stephen had made reconnaissance in his bike to the petitioner's house on 26.10.2022. Stephen had quarrel with his wife Kamali.



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When Kamali was two months pregnant, Stephen had kicked her and sent her out of his home. Thereafter, Stephen along with his sisters, totally 6 persons had come to the house of the 3rd petitioner R.Kamal Kumar and attacked the inmates in the house and therefore, a complaint was given in CSR.No.500 of 2022 and enquiry is pending. As a counter blast, this case is foisted with the help of S.Anushiya, who is the niece of Stephen. He further submitted that other accused are cousins of Kamal Kumar and they have no connection whatsoever in the alleged occurrence. Thus, he prays for quashment of the First Information Report in Crime No.8 of 2022 on the file of the Inspector of Police, W-6, Aynavaram AWPS, Chennai – 23.

3. The learned Government Advocate (Criminal Side) submitted that allegations in the First Information Report made out a case of sexual harassment and other IPC offences against the petitioners. The case was registered only on 07.11.2022 and investigation in this case is still pending. Thus, he prayed for dismissal of this petition.



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4. Considered the submissions of the learned counsel for the parties and perused the materials placed on record.

5. The learned counsel for the petitioners had made a claim that this case is registered against the petitioners as a counter blast to the complaint given by Kamali. In support of his submission, he produced various photographs to show the involvement of Stephen for foisting this case using the defacto complainant, who is his niece. However, this Court sitting in 482 CrPC cannot go into all these disputed facts. Whatever the allegations made in the First Information Report are to be taken as true.

6. The First Information Report reads as follows:-

“On 26.10.2022 at about 3.30 hours, the defacto complainant went to a tea shop nearby her house to buy tea. The accused persons sitting on a bike, started teasing her by using abusive words. They said that there is no one in their house and asked her to come to their house and tried to hold her. She escaped from that place and informed her aunt Asha Mary and her grand mother. Subsequently,



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her aunt informed her mother. Thereafter, her mother Stella Mary, aunt Asha Mary along with the defacto complainant asked the accused as to why they teased the defacto complainant. Deena, Moses, Kamal Kumar, Sibi and Saloman had come out from the house. Moses and Dheena tried to hit with plastic pipe which was blocked by her mother. Thereafter, her mother and aunt were pushed and the defacto complainant was attacked on the right breast with a pipe. Salomon hit Asha Mary with a cement stone on her back. R.Kamal Kumar and Salomon instigated him to hit on the head. Sibi scolded her in filthy language and tried to hit her with a plastic pipe. Kamal Kumar pushed her by placing his hand on the defacto complainant's right breast. They also said that the defacto complainant and her family members cannot do anything against the accused.”

7. The aforesaid allegations in the First Information Report clearly make out a case of sexual harassment against the defacto complainant. There are specific overtacts mentioned against the accused persons. The First Information Report is not an encyclopedia. We cannot expect each and every detail to be revealed in the First Information Report.

8. The First Information Report allegations clearly make out cognizable



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offences against the petitioners under POCSO Act and IPC offences. Therefore, this Court, finds that there is no merit in the petition for quashment of the First Information Report in Crime No.8 of 2022 on the file of the Inspector of Police, W-6, Aynavaram AWPS, Chennai – 23. The learned counsel for the petitioners is directed to produce whatever materials he has in support of his case before the investigating officer. The investigating officer is directed to consider the materials produced.

9. Learned Government Advocate (Criminal side) submitted that the investigation in this case is completed and final report will be filed before the concerned Court within one week. In view of the reasons stated above and the fact that final report is ready, this Court, dismisses this petition. It is open to the petitioners to challenge the final report, if it is taken cognizance, by the concerned Court.

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To

1. The Inspector of Police,
W-6, Aynavaram AWPS,
Chennai – 23.

2. The Public Prosecutor,
Madras High Court.

G.CHANDRASEKHARAN,J.



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