



Crl.O.P(MD).No.734 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 16.03.2023

Delivered On : 01.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.734 of 2021

and

Crl.M.P.(MD)No.328 of 2021

Muhammed Kaniyamma

...Petitioner

Vs

State Rep. By

1.The Inspector of Police,
Tirunelveli Town Police Station,
Tirunelveli City.
(Crime No.61 of 2019)

2.S.Velkani

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the impugned chargesheet in C.C.No.739 of 2020 for the offence under Section 353, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 is pending against the petitioner before the learned Chief Judicial Magistrate, Tirunelveli in connection with Crime No.61 of 2019 on the file of the respondent no.1 and quash the same as illegal.

For Petitioner

: Mr.S.Vel Rajan

For 1st Respondent

: Mr.M.Sakthi Kumar

Government Advocate (Crl. Side)



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For 2nd Respondent : Mr.R.Pon Karthikeyan

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ORDER

This petition is filed to quash the chargesheet in C.C.No.739 of 2020 on the file of the learned Chief Judicial Magistrate, Tirunelveli.

2.The case against the petitioners is that on 19.02.2019, the defacto complainant joined duty as the Inspector of Police in the first respondent Police Station. The first petitioner herein noticed a message in the whatsapp titled as 'Red Alert' defaming the defacto complainant and the message was sent by one Kalaikumar and thereafter, the message was forwarded by R.K.Raghupathi through Vickey Blood Donation via social media and facebook. The defacto complainant lodged a complaint and registered a case against the petitioners and others in Crime No.61 of 2019 for the offence under Sections 353 and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act. Chargesheet was filed and was taken on file as C.C.No.739 of 2020 on the file of the learned Chief Judicial Magistrate, Tirunelveli.

3.On the side of the petitioners, it is stated that the chargesheet does not contain any ingredients for the offences alleged by the prosecution. The statement of L.W.3 who is an independent witness, does not contain any



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allegation against the petitioners. The ingredients against the petitioners under

Section 353 of IPC is not made out. Since there is no allegation of assault to any public servant or use of criminal force with intent to prevent or deter the public servant from discharging the public service, the offence under Section 353 of IPC is not made out and the same is to be quashed.

4.On the side of the petitioner, it is further stated that as per Section 2(a) of TNPHW Act, there can be no allegation of harassment against a woman and hence, TNPHW Act is not maintainable as the petitioner is also a woman.

5.On the side of the petitioner, it is stated that a message sent through a mobile phone will not attract the requirements of Section 4 of TNPHW Act. In support of this contention, a judgment of this Court in the case of **G.Logeswaran v. State** in Crl.O.P.No.7405 of 2017 dated 06.12.2018 is cited.

6.It is further stated that there is no averment in the chargesheet to show that the petitioner has committed criminal intimidation against the defacto complainant. Hence, the Section 506(i) of IPC was not made out.



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7.A verification of the records reveals that in the FIR, the name of two persons Kalaikumar and R.K.Raghupathi were mentioned. A verification of the chargesheet reveals that the cell phone number of the person named as Kalaikumar belonged to the petitioner and the number mentioned as the number of Raghupathi belonged to one Muthuselvam. It is stated that there was some previous case against the said Muthuselvam and due to that motive, the said Muthuselvam has spread false statement in the Social media.

Instead of filing a case for defamation or a case under the IT Act, the defacto complainant though she is an Inspector of Police. He registered the case only under Section 353 and 506(i) of IPC. On the date of occurrence, the defacto complainant was not proceeding to do any official work. There was no allegation against the petitioner that she prevented the defacto complainant from discharging her official duty. There is no specific allegation either in the message alleged to have been created and published by the petitioner or in the complaint that the petitioner criminally intimidated the defacto complainant. Technically speaking Sections 353 and 506(i) of IPC are not made out against the petitioner. Under Section 2 of the TNPHW Act, the case against the petitioner is not maintainable.



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8.In view of the above, this Criminal Original Petition is **allowed** and the case in C.C.No.739 of 2020, pending before the learned Chief Judicial Magistrate, Tirunelveli against the petitioner is hereby quashed. Consequently connected miscellaneous petition is closed.

01.06.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No

To

- 1.The Chief Judicial Magistrate, Tirunelveli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R. THARANI,J.

Mrn

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