



Crl.O.P.(MD)No.196 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.02.2023

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.196 of 2019
in
Crl.M.P(MD).Nos.54 and 55 of 2019

Dr.Balachandran

... Petitioner

Vs.

1.State Rep. by
The Sub Inspector of Police,
Palayamkottai Police Station,
Tirunelveli,
Tirunelveli District.

2.Poomathi

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the impugned final report in relation to C.C.No.41 of 2018 on the file of the learned Additional Mahila Court, Tirunelveli, Tirunelveli District in connection with Crime No.1278 of 2016 on the file of the Sub Inspector of Police, Palayam Kottai Police Station, Tirunelveli District and quash the same as devoid of merits.

For Petitioner
For R1

: Mr.S.Palani Velayutham
: Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to call for the impugned final report in relation to C.C.No.41 of 2018 on the file of the learned Additional Mahila Court, Tirunelveli, Tirunelveli District in connection with Crime No.1278 of 2016 on the file of the Sub Inspector of Police, Palayam Kottai Police Station, Tirunelveli District and quash the same as devoid of merits.

2. The case of the prosecution in brief :-

The defacto complainant lodged a complaint stating that the petitioner/accused, who is her brother in-law residing in Rahumath Nagar, Palayamkottai, Tirunelveli. The property, which belongs to their family members was sold to some other persons, four years back. The sale amount of Rs.75,00,000/-(Rupees Seventy Five Laks only) was received by the petitioner/accused. He has stated the defacto complainant and his husband that he will deposit the amount in their name, so that they can get interest. Thereafter, the accused gave some amount to the defacto complainant and her husband for a period of two years. Thereafter, he has not given any amount to them. Therefore, on 03.09.2015, at about 10.00 a.m., the defacto complainant and her husband went to the accused's house and demanded the deposited amount. At that time, the accused persons abused them in filthy language,



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also criminally intimidated them. The further allegation is that the petitioner/accused hit the defacto complainant by using his car bearing registration No.TN 72 K 5775. The defacto complainant sustained grievous injuries. Thereafter, she was admitted in the hospital and on the basis of the complaint given by her, the present case has been registered in Crime No. 1278 of 2016 for the offences punishable under Sections 294(b), 326, 506(ii) of IPC r/w Section 4 of the Prohibition of Women Harassment Act, 2002.

3. After investigation in Crime No.1278 of 2016, the first respondent police filed the final report before the learned Judicial Magistrate No.I, Tirunelveli and the same was transferred to the learned Additional Mahila Court, Tirunelveli and the same was taken on file in C.C.No.41 of 2018.

4. The learned counsel for the petitioner submitted that now this quash petition has been filed mainly on the ground that all the witnesses cited in the final report are close relatives of the second respondent and after lapse of 1 year and 3 months, the FIR was registered. Before the doctor, the defacto complainant has given statment that she was hit by the unknown person's vehicle. Thereafter, the case in crime No.302 of 2015 on the file of the Traffic Investigation Wing, Tirunelveli, was registered for the offences under Section 337 of 279. The Traffic Investigation Wing, Tirunelveli, has not conducted



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the investigation properly. Therefore, the Commissioner of Police, Tirunelveli City transferred the said FIR to the first respondent police for further investigation. At that time, the petitioner was wrongly implicated in this case. He further submitted that the petitioner is a leading cardiologist and to spoil his name, the petitioner was implicated in this case.

5. Heard both sides and perused the materials available on record.

6. Perusal of records shows that totally three complaints have been given by the second respondent / defacto complainant, over the above said occurrence and the present complaint has been given after lapse of 1 year and 3 months. As mentioned in the petition already there was a serious motive between the parties. No documentary evidence have been produced to show that the second respondent has sustained injuries.

7. Percontra, the learned Government Advocate (Crl.Side) appearing for the first respondent police submitted that after full investigation in Crime No.1278 of 2016, final report was filed before the concerned Court and the same was taken on file in C.C.No.41 of 2018.



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8. A perusal of Medical report shows that the injury suffered by the second respondent is grievous in nature. The final report was filed along with the wound certificate and also the other documents, which shows that the defacto complainant sustained serious injuries in her neck.

9. The contention of the learned counsel for the petitioner that no medical record is produced before the trial Court to show the nature of injuries sustained by the second respondent, is not at all correct on records.

10. The second respondent has given a contrary statement before the medical officer and the Investigating Officer, which cannot be taken into account at this stage. Whether the second respondent was hit by the petitioner or any other persons, is a matter for consideration by the trial Court. Already there was some dispute between the defacto complainant and the petitioner/accused over some property issue. Whether this is a real case or a foisted case, is a matter for consideration by the trial Court, which cannot be undertaken by this Court by excersing the jurisdiction under Section 482 of Cr.P.C. Therefore, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. Since the petitioner is the cardiologist, the personal appearance of the petitioner alone is dispenced before the trial Court on the following condition without going into other aspects;



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(i)The petitioner shall appear before the Additional Mahila Court, Tirunelveli, Tirunelveli District, within a period of 15 days from the date of receipt of a copy of this order and file an undertaking affidavit, by affixing her recent passport size photograph, to the effect that he will appear before the trial Court as and when required and must ensure her proper representation through Advocate.

09.02.2023

Index : Yes/No
Internet:Yes/No
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To

1. learned Additional Mahila Court,
Tirunelveli,
Tirunelveli District.
2. The Sub Inspector of Police,
Palayamkottai Police Station,
Tirunelveli,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J.,

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