



CrI.O.P.(MD)No.8855 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 15.11.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.O.P.(MD).No.8855 of 2021

and

CrI.M.P.(MD).No.4558 of 2021

Muthusaravanan

... Petitioner/Sole Accused

Vs.

1.The State Rep by

The Inspector of Police,
Alangulam All Women Police Station,
Tirunelveli District.
(Crime No.3 of 2021)

... Respondent/Complainant

2.Saranya

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the FIR in Crime No.3 of 2021 pending on the file of the Inspector of Police, Alangulam All Women Police Station, Tirunelveli District and quash the same.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.M.Muthumanikkam
Government Advocate (CrI.Side) for R1

: Ms.C.Kayalvizhi
Legal-aid-Counsel for R2



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ORDER

This Criminal Revision case has been filed to quash the FIR in Crime No. 3 of 2021 pending on the file of the Inspector of Police, Alangulam All Women Police Station, Tirunelveli District.

2.The case of the prosecution is that the petitioner and the defacto complainant was known to each other for the past 7 years and loved each other. On 28.05.2020, the petitioner had physical relationship with the defacto complainant in her house by making false promise of marrying her. The same was also video-graphed by the petitioner and sent to the defacto complainant and thereafter on several occasions both of them had physical relationship at different places. Further, on 10.01.2021, the petitioner is said to have taken her phone and threatened her stating that if she disclosed anything to anybody, the video clips would be uploaded in social media. Therefore, the defacto complainant lodged a complaint before the first respondent police on 07.02.2021.



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3.The *defacto* complainant made an allegation against the petitioner stating that they loved each other and the petitioner without keeping the promise of marrying the *defacto* complainant, cheated her and hence, on receipt of the complaint given by the *defacto*-complainant, the respondent police registered a case for the offence under Sections 417 and 376 of I.P.C., and Section 67A of the Information Technology Act, 2000. Challenging the same, the petitioner herein has filed this quash petition.

4.The learned counsel for the petitioner submitted that Section 67(a) of the Information Technology Act, 2000 is struck down by the Hon'ble Supreme Court and invocation of Section 67 (a) is not maintainable. He would further submit that subsequent to the registration of the case, the petitioner married the defacto complainant and they are living happily. Now, the defacto complainant is pregnant. In the said circumstances, he seeks for quashing of the FIR.

5.The learned Government Advocate (Crl.Side), on instructions, submitted that the investigation is completed and the final report was also filed. The same was taken on file in P.R.C.No.55 of 2023, on the file of the Judicial Magistrate, Tenkasi.



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6. The learned counsel for the petitioner, by way of reply, submitted that the filing of the final report is not a ground to dismiss the quash petition. The Hon'ble Supreme Court in the case of *The Hon'ble Supreme Court in the case of **Abhishek v. State of M.P.***, reported in **2023 SCC Online SC 1083** has held as follows:

*11.This being the factual backdrop, we may note at the very outset that the contention that the appellants' quash petition against the FIR was liable to be dismissed, in any event, as the chargesheet in relation thereto was submitted before the Court and taken on file, needs mention only to be rejected. It is well settled that the High Court would continue to have the power to entertain and act upon a petition filed under Section [482 Cr.P.C.](#) to quash the FIR even when a charge sheet is filed by the police during the pendency of such petition [See *Joseph Salvaraj A. v. State of Gujarat* ([\(2011\) 7 SCC 59](#))]. This principle was reiterated in *Anand Kumar Mohatta v. State (NCT of Delhi), Department of Home* [[\(2019\) 11 SCC 706](#)]. This issue, therefore, needs no further elucidation on our part.*

In view of the same, there is no bar to invoke the inherent power to quash the proceedings even if the final report was filed pending this quash petition filed to quash the FIR. This Court has power to look into the material collected during the investigation and find out whether any offence is made out against the



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petitioner to continue the proceedings.

7. This Court considered the rival submission made by the learned counsel appearing on either side and perused the materials available on record and also the precedents relied upon by the petitioner and perused the FIR.

8. This Court appointed a legal-aid-counsel and on instructions, she submitted that the petitioner married the second respondent and they are leading a peaceful married life.

9. From the records and the submission, it is clear that the petitioner is aged about 25 years and the second respondent aged about 24 years. Both loved each other for more than 7 years. Due to some circumstances, the second respondent made a complaint before the respondent police and the respondent police has registered the case under Sections 417 and 376 of IPC and Section 67 (A) of the Information Technology Act, 2000. In view of the subsequent development and taking into consideration of the circumstances that both are married now and they are happily living together, this Court is inclined to entertain this quash petition, otherwise, it would jeopardize the peaceful life of the petitioner and the



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second respondent. Non exercise of the power in this case would reduce the life of the respondent to a situation of homeless life which would not be in furtherance of doing justice. In similar circumstances, this Court in Crl.O.P.No. 5804 of 2022, Crl.O.P.(MD).No.15727 of 2022 and Crl.O.P.No.21378 of 2016 had entertained the quash petition.

10.In view of the above discussion, this Court is inclined to quash the proceedings as against the petitioner in P.R.C.No.55 of 2022, on the file of the Judicial Magistrate, Tenkasi.

11. Accordingly, this Criminal Original Petition stands allowed and the proceedings initiated in the FIR in Crime No.3 of 2021, on the file of the Inspector of Police, Alangulam All Women Police Station, Tirunelveli District, is hereby quashed. Consequently, connected miscellaneous petition is closed.

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

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- 1.The Inspector of Police,
Alangulam All Women Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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