



Crl.O.P.(MD) No.13909 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.11.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

Crl.O.P.(MD) No.13909 of 2021

and

Crl.M.P(MD)Nos.7226 of 2021 and 13697 of 2023

Suriyakumar @ Suryakumar

... Petitioner

Vs.

1. State Rep. by
The Inspector of Police,
Odaipatti Police Station,
Theni District.
(In Crime No.16 of 2019)

2. Nitharsha

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the case registered in First Information Report in Crime No.16 of 2019 on the file of the 1st Respondent and Quash the same in respect of the Petitioner as illegal.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.P.Kottaichamy,
Government Advocate(Crl.Side)
for R1
: Mr.R.Suriya Narayanan
for R2



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ORDER

This Criminal Original Petition has been filed to quash the impugned FIR in Crime No.16 of 2019 on the file of the first respondent police.

2. The petitioner is the accused in Crime No.16 of 2019. The material portion of the allegation against the petitioner is as follows:

(i)The defacto complainant was residing in Odaipatti with her family. Before one month, a betrothal function was conducted in between one Venkatesh and Ravinarani, who is the niece of the defacto complainant. The accused person is the friend of one Vasanth, who had a one side love affair with Ravinarani. Therefore, Vasanth had an enmity with Ravinarani's family because of non-acceptance of his love. When the betrothal function was conducted in the defacto complainant's house, the alleged accused person had enmity with the defacto complainant and thereby morphed the photo of the defacto complainant, which was taken from her whatsapp



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display picture and added some bad comment and posted it in face book as if the defacto complainant shared by her own. When the defacto complainant asked about the post to the accused person, he had abused the defacto complainant with filthy language and thereby threatened the defacto complainant with dire consequences.

(ii) It is the further case that the defacto complainant's niece, namely, one Ravinarani, who had affair with one Vasanth. The petitioner is the friend of Vasanth, who was in a one side love affair with Ravinarani. The defacto complainant made some marriage arrangements for Ravinarani, because of this Ravinarani had an enmity with the defacto complainant. For distracting the defacto complainant, Ravinarani created a fake ID in the name of the defacto complainant by using the mobile number of the petitioner and morphed the photo of the defacto complainant and posted the same in the facebook. Therefore, the complaint was made and the same was registered for the offences punishable under Sections 294 (b), 354 (d), 506(i) of IPC and 67 A of Information Technology Act 2000.



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3. The learned counsel for the petitioner submitted that Section 67A of Information Technology Act, was struck down by the Hon'ble Supreme Court and the jurisdictional police has erroneously incorporated the said provision. Further, the ingredients under Section 294(b), 506(ii) and 354 (d) are also absent.

4. This Court perused the FIR and found that necessary ingredients to constitute the offences under Sections 294(b), 506(i) and 354(d) of IPC are made out. Further, there are clear averments in the FIR relating to the above said offences. Insofar as inclusion of offence under Section 67 A of the Information Technology Act is concerned, as rightly submitted by the learned counsel for the petitioner, the same has already been struck down by the Hon'ble Supreme Court. Therefore, this Court has directed the first respondent police to delete the offence under Section 67 A of Information Technology Act in the final report. The learned trial Judge is hereby directed not to frame any charge under Section 67 A of the Information Technology Act and proceed with the trial for the offences under Section 294(b), 506(i) and 354 (d) of IPC.



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5. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

21.11.2023

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

To

1. The Inspector of Police,
Odaipatti Police Station,
Theni 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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