



WEB COPY



CRL.OP.(MD)No.17131 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.11.2022

DELIVERED ON : 11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.(MD)No.17131 of 2022

and

CRL.MP.(MD).No.11520 of 2022

S.Ravichandran

: Petitioner/Accused

Vs.

1. The State Rep. By
The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
(Crime No.323/2021)

: 1st Respondent/Complainant

2. Sarulatha

: 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to the case in Crime No.323/2021 on the file of the Inspector of Police, Thiruvadanai Police Station, Ramanathapuram District and quash the same.

For Petitioner
For Respondents

: Mr.R.Anand
: Mr.R.Sivakumar
Government Advocate (Crl. Side) for R1
: Mr.N.Pragalathan for R2

ORDER



CRL.OP.(MD)No.17131 of 2022

WEB COPY

This Criminal Original Petition has been filed to quash the case in Crime No.323/2021 on the file of the Inspector of Police, Thiruvadanai Police Station, Ramanathapuram District.

2. The Petitioner is the sole Accused in respect of the alleged offences under Sections 294(b), 354(A) (i) (ii), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of the Harassment of Women Act and Section 5 of the Immoral Traffic (Prevention) Act, 1956.

3. The learned Counsel for the Petitioner invited the attention of this Court to the contents of the FIR, wherein it has been mentioned that when the defacto Complainant drove the vehicle dropping her husband, who is visually impaired, in a School. The Petitioner herein is alleged to have driven a Car close to her two wheeler as though colliding with her tow wheeler forcing her to stop the vehicle and had uttered obscene words directing her to involve in prostitution, otherwise he will run the Car over her. For the offences alleged to have taken place in the Morning 9'O clock, the defacto Complainant is alleged to have given the Complaint to the first Respondent in the evening by 19.00 hours.

4. It is the further contention of the learned Counsel for the Petitioner



CRL.OP.(MD)No.17131 of 2022

that for the offence attracting Immoral Traffic (Prevention) Act, 1956, as per Section 13 (1) of Immoral Traffic (Prevention) Act, 1956, the Special Police Officer is only given discretion to register the case.

5. In support of his contention, the learned Counsel for the Petitioner relied on the following Rulings:

(i) The Order passed by this Court in ***Crl.O.P.No.30001 of 2019 (Balu @ Balasubramaniam Vs. The Inspector of Police, Reddiarpalayam Police Station, Puducherry District) dated 18.02.2021.***

(ii) The Order passed by this Court in ***Crl.O.P.(MD)No.3689 of 2020 (R.Saravanakumar and another Vs. The State Represented by The Inspector of Police, All Women Police Station, Ramanathapuram) dated 02.12.2020.***

(iii) The Order passed by this Court in ***Crl.O.P.No.922/2021 (Hema Jwaalini and others Vs. The Commissioner of Police, Chennai City Police Commissionerate, Vepery, Chennai and others) dated 29.04.2022.***

(iv) The Order passed by this Court in ***Crl.O.P.No.20822/2021 (Easwaramoorthi Vs. The State Represented through The Inspector of***



CRL.OP.(MD)No.17131 of 2022

Police, Thideer Nagar Police Station, Madurai City) dated 11.03.2022.

WEB COPY

6. The learned Government Advocate (Crl. Side) for the first Respondent submitted that the submission of the learned Counsel for the Petitioner cannot at all be accepted by this Court exercising the extraordinary powers under Section 482 Cr.P.C., to quash the FIR involving Immoral Traffic (Prevention) Act, 1956. It is the further contention of the learned Government Advocate (Crl. Side) that the Petitioner has five previous cases, amongst which, one is similar in nature as the present case.

7. In support of his contention, the learned Government Advocate (Crl. Side) relied on the following rulings:

(i) The Order passed by this Court in ***Crl.O.P.No.15963/2020 (A.Thanajayan and another vs. The Inspector of Police, V4 Rajamangalam Police Station, Chennai) dated 06.07.2022.*** The relevant portion reads as follows:

“17.....9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the Order passed by the trial Court issuing summons to the Respondents. A perusal of the Complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegation has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to be decided only in the trial. At the initial stage of issuance of process it is not open to the Courts to



CRL.OP.(MD)No.17131 of 2022

WEB COPY

stifle the proceedings by entering into the merits of the contentions made on behalf of the Accused. Criminal Complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the Accused are prima facie made out in the Complaint, the criminal proceedings shall not be interdicted.”

(ii) The Order passed by this Court in *Crl.O.P.No.922/2021 (Hema Jwaalini and others Vs. The Commissioner of Police, Chennai City Police Commissionerate, Vepery, Chennai and others)* dated 29.04.2022.

The relevant portion is extracted hereunder:

“37. In *Kaptan Singh V. State of U.P.*, (2021) 9 SCC 35, also it has been held by the Apex Court as under:-

12. Therefore, the High Court has grossly erred in quashing the criminal proceeding by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,”

8. The learned Counsel for the second Respondent had also relied on the same ruling.

9. The learned Government Advocate (Crl. Side) invited the attention of this Court to the Government Order issued by the Social Welfare Department in G.O.Ms.No.618 dated 13.04.1987. The relevant portion reads as follows:

“In respect of the areas within his jurisdiction and also appoints every Police Officer (including Women Police



CRL.OP.(MD)No.17131 of 2022

WEB COPY

Officers wherever necessary) not below the rank of a Sub-Inspector of Police as subordinate Police Officers to assist the Special Police Officer concerned.”

10. The learned Counsel for the Petitioner submitted that the designated Police Officer alone is empowered to conduct investigation with regard to the Immoral Traffic (Prevention) Act. The mandatory requirements under Section 15 of the Immoral Traffic (Prevention) Act had not been followed.

11. The learned Government Advocate (Crl. Side) vehemently opposed the submission of the learned Counsel for the Petitioner stating that in G.O.Ms.No.618 dated 13.04.1987 issued by the Government of Tamil Nadu, Social Welfare Department states that the Governor of Tamil Nadu appoints every Police Officer not below the rank of an Inspector of Police, to be the Special Police Officer for dealing with offences under Section 13 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956) and in super-session of the Orders issued with G.O.Ms.No.2527, Home. Also, in the same G.O, the Sub-Inspector of Police as sub-ordinate Police Officers were appointed to assist the Special Police Officer concerned. The submission of the learned Counsel for the Petitioner that the first Respondent is not a Special Police Officer and



CRL.OP.(MD)No.17131 of 2022

therefore the proceeding has to be quashed cannot at all be considered by this Court.

12. The reported ruling cited by the learned Counsel for the Petitioner in ***Crl.O.P.No.30001 of 2019 (Balu @ Balasubramaniam Vs. The Inspector of Police, Reddiarpalayam Police Station, Puducherry District) dated 18.02.2021***, is with regard to the search of premises alleged to have been misused for the offence of prostitution as a brothel house. The Petitioner in Crl.O.P.No.30001 of 2019 had sought to quash the final report pending on the file of the learned Judicial Magistrate. The same was quashed stating that the respectable inhabitants of the locality were not examined by the Special Police Officer and the Mandatory Provisions had not followed. Here is a case, whether the second Respondent is alleged to have been pressurized by the Petitioner to involve in prostitution, failing which, the Petitioner is alleged to have threatened her that he will kill her by running over the car. Based on the Complaint of the second Respondent, the first Respondent had registered the case against the Petitioner. Hence, the Order passed in ***Crl.O.P.No.30001 of 2019 (Balu @ Balasubramaniam Vs. The Inspector of Police, Reddiarpalayam Police Station, Puducherry District) dated 18.02.2021*** is not applicable to the



CRL.OP.(MD)No.17131 of 2022

facts of this case in the light of the G.O.Ms.No.618 dated 13.04.1987.

WEB COPY

13. Crl.O.P.No.3689/2020 cited by the learned Counsel for the Petitioner and Crl.O.P.No.922/2021 cited by the learned Government Advocate (Crl. Side) also deals with procedural irregularity laid under Section 15 of the Immoral Traffic (Prevention) Act, 1956 relating to the search of the premises where prostitution is alleged to have been taking place. The facts of the said cases are not applicable to the present case. Again Crl.O.P.No.20822/2021 is also not applicable to the present case.

14. The ruling cited by the learned Government Advocate (Crl. Side) as well as the learned Counsel for the second Respondent in the Order passed by this Court in Crl.O.P.No.15963/2020 (A.Thanajayan and another Vs. The Inspector of Police, V4 Rajamangalam Police Station, Chennai) dated 06.07.2022. The relevant portion reads as follows:

“17.....9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the Order passed by the trial Court issuing summons to the Respondents. A perusal of the Complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegation has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to be decided only in the trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the Accused. Criminal Complaints



CRL.OP.(MD)No.17131 of 2022

cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the Accused are prima facie made out in the Complaint, the criminal proceedings shall not be interdicted.”

and the Order passed by this Court in ***Crl.O.P.No.922/2021 (Hema Jwaalini and others Vs. The Commissioner of Police, Chennai City Police Commissionerate, Vepery, Chennai and others)*** dated 29.04.2022.

The relevant portion is extracted hereunder:

“37. In Kaptan Singh V. State of U.P., (2021) 9 SCC 35, also it has been held by the Apex Court as under:-

12. Therefore, the High Court has grossly erred in quashing the criminal proceeding by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,”

which are applicable to the present case.

15. As held by the Hon'ble Supreme Court and in the light of the above discussion, the submission of the learned Counsel for the Petitioner is rejected. The submission of the learned Government Advocate (Crl. Side) and the learned Counsel for the second Respondent is accepted.

16. Also as per G.O.Ms.No.618, dated 13.04.1987 the Government of Tamil Nadu had empowered the Officers of the rank of Sub Inspector of



CRL.OP.(MD)No.17131 of 2022

Police and above in all the Police Stations across the State being designated as Special Police Officers under the Provisions of Immoral Traffic (Prevention) Act, the prayer of the Petitioner seeking to quash the FIR in Crime No.323/2021 on the file of the Inspector of Police, Thiruvadanai Police Station on the technicalities of the law, suppression of Immoral Traffice (Prevention) Act cannot be accepted. Hence rejected.

In the result, this ***Criminal Original Petition is dismissed*** as having no merits. Consequently, connected Miscellaneous Petition is closed.

The first Respondent is directed to proceed with the investigation and lay the final report before the Court concerned.

11.08.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order
dh

To

1. The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
2. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.OP.(MD)No.17131 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

dh

Order made in

CRL.OP.(MD)No. 17131 of 2022

11.08.2023