



Crl.O.P.(MD)No.19880 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.19880 of 2018

and

Crl.M.P.(MD).Nos.9121 and 9122 of 2018

O.Homerlal

... Petitioner / Sole Accused

Vs.

1.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
(Crime No.553/2016).

... Respondent/ Complainant

2.Subashini

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records C.C.No.115 of 2018 on the file of the Judicial Magistrate Court No.I, Padmanabhapuram and to quash the same.

For Petitioner : Mr.S.C.Herold Singh

For R-1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor.

For R-2 : Mr.G.Aravinthan



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ORDER

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The Criminal Original Petition has been filed challenging the impugned charge sheet in C.C.No.115 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram.

2. The allegations in the charge sheet is that on 16.06.2016 at about 9.00 PM when the defacto complainant was drying clothes, the petitioner uttered filthy language and behaved in an indecent manner, which resulted in a wordy quarrel between the petitioner and the defacto complainant's husband. It is further alleged that on 20.06.2016 at about 8.00 AM, the petitioner once again abused the defacto complainant and threatened her showing aruval stating that he would kill her.

3. The learned counsel for the petitioner submitted that for the alleged occurrence which is said to have taken place on 16.06.2016, the defacto complainant had come up with a false complaint on 20.06.2016 at 10.00 PM. The petitioner is actually the victim and he had lodged a complaint stating that the defacto complainant's husband abused him. This complaint filed by him immediately after the occurrence was however registered on 20.06.2016 at 9.00



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hours. The defacto complainant's husband was arrested in this complaint and only as a counter blast, the defacto complainant has come up with this false case.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that the trial has commenced in the instant case and two witnesses have already been examined on the side of the prosecution. The prosecution has to examine five more witnesses and the trial may be concluded within a reasonable time. Further, the learned Additional Public Prosecutor submitted that the charge sheet which was filed pursuant to the petitioner's complaint is also pending trial before the very same learned Magistrate.

5. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor for the first respondent and the learned counsel for the second respondent and perused the impugned charge sheet.

6. This Court finds that the first complaint was filed by the petitioner against the defacto complainant's husband. The defacto complainant's husband was arrested on the said complaint on 20.06.2016. The defacto complainant has come up with the complaint which resulted in the impugned charge sheet four days after the alleged occurrence. Two witnesses have been examined in



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C.C.No.115 of 2018 arising out of complaint filed by the defacto complainant.

The learned counsel for the petitioner further informs this Court that in the final report filed on the petitioner's complaint, one witness has been examined and the case is posted tomorrow for examination of LW2 and LW3. Though it is true that the complaint filed by the defacto complainant is four days after the alleged occurrence on 16.06.2016, she had alleged about another incident on 20.06.2016 said to have take place at 8.00 AM. As to whether this version of the defacto complainant has to be believed or not is a triable issue. That apart, two witnesses have already been examined in C.C.No.115 of 2018.

7. Therefore, this Court is not inclined to quash the impugned proceedings. This Court is of the opinion that in the interest of justice C.C.No.99 of 2018 arising out of Crime No.550 of 2016 has to be tried simultaneously with C.C.No.115 of 2018 in which the petitioner is an accused and judgment is delivered by the learned Magistrate on the same day in both the cases.

8. The learned counsel for the petitioner further prayed that the appearance of the petitioner may be dispensed with before the Trial Court. In view of the request made by the learned counsel for the petitioner, the



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appearance of the petitioner before the Trial Court is dispensed with unless the Trial Court deems his presence necessary for the progress of the trial. As stated earlier, the learned Judicial Magistrate No.I, Padmanabhapuram shall conduct the trial in C.C.No.99 of 2018 arising out of Crime No.550 of 2016 and C.C.No.115 of 2018 arising out of Crime No.553 of 2016 simultaneously and deliver the judgment on the same day.

9. With the above observations, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

06.02.2023

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

To

- 1.The Judicial Magistrate No.I,
Padmanabhapuram.
- 2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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SUNDER MOHAN, J.

Lm

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