



Criminal Original Petition No.2075 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.2075 of 2024

and

CrI.M.P.No.1483 of 2024

Jeevan Jothi,
S/o.Adam

... Petitioner

Vs.

1. State represented by
The Inspector of Police,
All Women Police Station,
Poonamalle, Avadi, Chennai.
(Cr.No.19/2019)

2. Pachaiyammal,
D/o.Srinivasan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for records and quash the FIR in Cr.No.19/2019 on the file of the first respondent viz., The Inspector of Police, AWPS, Poonamalle, Avadi District, Chennai, as an abuse of process of Court.

For Petitioner : Mr.T.R.Sivaram

For Respondents : Mr.A.Damodaran

Additional Public Prosecutor[R1]



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ORDER

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This Criminal Original Petition has been filed seeking to quash the First Information Report in Crime No.19 of 2019 on the file for first respondent registered for offences u/s.417, 420 and 493 IPC.

2. Heard Mr.T.R.Sivaram, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first respondent.

3. The case of the prosecution is that the second respondent was working as a receptionist in a hospital. She was involved in a relationship with the petitioner. It is also stated the petitioner promised to marry the second respondent. Their relationship continued and they also seem to have had physical intercourse. Ultimately, the petitioner is said to have cheated her and was engaged to marry another girl. Based on these allegations, the second respondent gave a complaint, which resulted in the registration of a First Information Report in Crime No.19 of 2019.



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4. When the matter came up for hearing on 07.02.2024, this Court passed the following order:

"When the matter was taken up for hearing, the learned Additional Public Prosecutor submitted that whereabouts of the 2nd respondent is not known and therefore, there has been no progress in the investigation.

2. The 1st respondent shall file an affidavit before this Court explaining the steps taken to find out the whereabouts of the 2nd respondent. If ultimately, the 2nd respondent is not interested in prosecuting the case, no useful purpose will be served in keeping this FIR pending. On receipt of the affidavit from the 1st respondent, final orders will be passed in this Criminal Original Petition.

3. Post this case under the same caption on 14.02.2024."

5. When the matter was taken up for hearing today, an affidavit has been filed by the first respondent and the relevant portions are extracted hereunder:

"10. It is submitted that I have issued summon 41 Cr.P.C. to the defacto complainant for appearance through register post and the same was returned for non availability of the defacto complainant on 02.03.2020.

11. It is submitted that at this stage, at the point of jurisdiction, the said case was transferred to SRMC, All Women Police Station, Chennai from Poonamallee W-30, All Women Police Station for further investigation on 20.04.2022. After that, summon was issued to the defacto complainant for several occasions for appearance.



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12. It is submitted that on 14.10.2022, 16.11.2022 and 13.10.2023, the then Inspector of Police took up the case for further investigation and issued summon to the defacto complainant for appearance through register post and in person. But, she did not appear before the 1st respondent police.

13. It is submitted that on 21.08.2023, I have collected non availability certificate of the defacto complainant from the Village Administrative Officer, Maduravoyil, Chennai.

14. It is submitted that during the course of investigation, it came to light that due to non availability of the defacto complainant in her residence, I could not to proceed this case for further investigation. This case is still under investigation."

6. It is clear from the above that the second respondent is not available for enquiry and her whereabouts also are not known. In view of the same, the first respondent is not able to make any progress in the investigation. The First Information Report has been pending from the year 2019 onwards for more than 4½ years and no progress has been made due to non-availability of the second respondent. Hence, the continuation of the First Information Report without the second respondent being available for enquiry will not serve any purpose.

7. In view of the above, there shall be a direction to the first respondent to file a closure report as further action dropped before the



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concerned Court. This process shall be completed within a period of four (4) weeks.

This Criminal Original Petition is disposed of in the above terms.

Consequently, connected miscellaneous petition is closed.

19.02.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The Inspector of Police,
All Women Police Station,
Poonamallee, Avadi, Chennai.

2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J.

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