



Crl.O.P.No.9896 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.9896 of 2022
and
Crl.M.P.Nos.5812 & 5814 of 2022

Sivaprakasam

... Petitioner/A2

Versus

1.The Inspector of Police,
All Women Police Station,
Kanchipuram,
Kanchipuram District.
Crime No.5 of 2020

2.Ammuni

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records relating to the case in S.C.No.52 of 2021, pending on the file of the Mahila Court, Chengalpet and quash the same.

For Petitioner : Mr.K.C.Senthilkumar

For R1 : Mr.S.Vinoth Kumar,
Government Advocate (Crl. Side)



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ORDER

This petition has been filed to quash the proceedings in S.C.No.52 of 2021, pending on the file of the Mahila Court, Chengalpet, Sessions Judge, as against the petitioner, having been taken cognizance for the offences under Sections 294(b), 376(1), 376(2)(n), 506(2), read with 34 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. The case of the prosecution is that one Ammini, 26 years D/o.Munusamy had lodged a complaint on 21.11.2020 on the allegation that A1/ Devarajan who is the Paternal Aunt's Son who is in love affair with the 2nd respondent for the past 7 years had compelled her and forcibly had intercourse with the 2nd respondent on 06.10.2013 in the residence of the petitioner and it continued whenever there was none in the house. A1 had promised to marry and now he refused to marry, when the 2nd respondent questioned the same the A1 threatened the 2nd respondent by saying that he would commit suicide if the 2nd respondent reveals the factum of truth and now engaged by way of Betrothal with one Sowmiya on 30.10.2020, unable to tolerate the false promises made by A1. The 2nd respondent consumed



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pesticide and attempted to commit suicide and the 2nd respondent got admitted in the GH.Kanchipuram on 05.11.2020 and on 06.11.2020 she got discharged. Thereafter, the 2nd respondent's parents has asked for the reason, at that point of time the 2nd respondent has revealed about the facts of the love affair and about the intercourse. So, the 2nd respondent father had taken her along with her elder paternal uncle and went to the petitioner's house on 08.11.2020 and sought for solve the issue. At that point of time the petitioner along with A1 used filthy language stating that the 2nd respondent and his family members should not enter into the house with the marriage proposal and threatened them with dire consequences. Hence the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is the brother of A1 (Devarajan) and A2 is the mother of A1. He further submitted that the petitioner has no way connected with the alleged offence committed by the defacto complainant. In order to rope the petitioner, the 2nd respondent was compelled to give such a complaint as if the petitioner herein had threatened with dire consequences and standing in the way of the marriage between A1 and the 2nd respondent. He further submitted that A1 and the 2nd respondent are major and the 2nd respondent being a M.Com., graduate and working in a private concern should have recognized the Act



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and the petitioner have no role or knowledge. Hence charging them for the heinous Crime is against law and violation of natural justice. Hence, he prays to quash the proceeding against the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that based on the complaint lodged by the defacto complainant, FIR was registered in Crime No.5 of 2020 which came to be taken on file on the Judicial Magistrate No.II, Kanchipuram, and now it has been charge sheeted as a Sessions case in S.C.No.52 of 2021, now pending trial on the file of the Mahila Court, Chengalpet, Sessions Judge. He also submitted that the petitioner was no way connected with the alleged love affair among A1 and the defacto complainant. At the time, the defacto complainant was aged about 26 years and A1 also major and there was some love affair. Subsequently, some dispute arose between them, on the day there was a wordy quarrel among family members, due to which he was falsely implicated in this case.

5. On a perusal of the 167(2) Cr.P.C statement it reveals that she had affair with A1 and also consummated and there was a marriage proposal arranged between the family members. He is one of the family members and also participated in the said wordy quarrel. Considering the facts and



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circumstance, and there is no material evidence on the side of the prosecution to implead the petitioner as accused that he used filthy language and threatened the R2. Therefore, this Court is inclined to quash the proceeding in S.C.No.52 of 2021, pending on the file of the Mahila Court, Chengalpet against this petitioner alone.

7. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous petitions are closed.

16.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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To

1.The Inspector of Police,
All Women Police Station,
Kanchipuram,
Kanchipuram District.
Crime No.5 of 2020

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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