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Crl.OP.No.18534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.18534 of 2024
and Crl MP No.10974 of 2024

Akhilan

... Petitioner

Vs.

1. State rep. By

The Inspector of Police,
W-8, AWPS Thirumangalam Police Station,
Chennai 600 028
(Crime No.10/2021)

2. Suganya

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in CC No.40 of 2024 pending on the file of the learned Judicial Magistrate, Ambattur and quash the same.

For Petitioner : Mr.C.Prabhu

For Respondents : Mr.S.Udaya Kumar
Govt. Advocate (Crl. Side), for R1



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ORDER

The petitioner herein is the husband of the complainant Suganya, is facing trial for the offence under Sections 498(A), 406, and 506(ii) of IPC before the Judicial Magistrate, Ambatur in CC No.40 of 2024.

2. The petitioner contends that the Defacto Complainant had given three complaints at various Police Stations and in fact, on a complaint given to the Avadi Police, she has taken back all her belongings and given a letter dated 26.06.2021 and withdrawn the complaint. While so, an earlier complaint dated 30.01.2021 was given to the All Women Police Station, Thirumangalam Police, being perused and a final report filed without taking note of the subsequent event.

3. The learned counsel appearing for the petitioner would submit that particularly, the petitioner and the Defacto complainant on 26.06.2021, having settled all the disputes and taken back all her belongings/articles, nothing survives in the complaint dated 30.01.2021. Further, he would submit that in respect of all other accused, the quash petition filed was allowed by this Court vide order dated 04.09.2023 in



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Criminal OP No.5645 of 2022 and same has to be extended to the petitioner herein.

4. The learned counsel appearing for the Defacto Complainant would submit that the complaint given before the Avadi Police and withdrawn exclusively for the properties and personal belongings of the Defacto Complainant which was held by the petitioner, whereas the complaint dated 30.01.2021 with the subject matter of CC No.40 of 2024 is for the cruelty and breach of trust as well as voyeurism attracting offence under Section 354(c) of IPC. Therefore, the complaint before the Avadi Police which was later withdrawn, can have no hearing.

5. Further, he would also submit that the order of this Court which quashed the FIR as against the other accused would clearly show that this Court was not inclined to quash the FIR as against this petitioner and directed the respondent Police to complete the investigation and file a final report. Therefore, he would submit that the petitioner cannot take advantage of the order passed by this Court which quashed the FIR as against the other accused.



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6. The learned counsel appearing for the petitioner would submit that the allegation of breach of trust and voyeurism cannot be sustained. In view of the fact that there is no evidence for voyeurism and for breach of trust since the complainant has taken all of her belongings/articles and given an acknowledgment letter dated 26.06.2021, Section 406 of IPC will not get attracted.

7. This Court after giving its anxious consideration on the rival submission and perusal of the records finds that the final report filed against this petitioner is for offence under Sections 498(A), 406 and 506(ii) of IPC. It is contended by the petitioner that he has given back all the articles and taken acquaintance from the Defacto Complainant. This has happened on 26.06.2021.

8. It is ascertained from the counsels that the charge has not yet been framed by the Court below. In such circumstances, it is always open to the petitioner herein to bring to the notice of the Judicial Magistrate about the return of articles of the petitioner and seek for discharge from offence under Section 406 of IPC. Insofar as the other



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offences are concerned, this Court is of the view that the return of article *per se* cannot and do not exonerate the petitioner from facing trial for offence under Sections 498(A), 406 and 506(ii) of IPC.

9. Therefore, with the above direction and observation, the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

30.08.2024

jv

Index: Yes/No

Internet: Yes/No

To

1. The Judicial Magistrate,
Ambattur.
2. The The Inspector of Police,
W-8, AWPS Thirumangalam Police Station,
Chennai 600 028.
3. The Public Prosecutor,
High Court of Madras



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Dr.G.JAYACHANDRAN,J.

jv

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