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CrI.O.P.No.31223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

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

CrI.O.P.No.31223 of 2022
and
CrI.M.P.Nos.19074 & 19075 of 2022

Selvi

... Petitioner

Versus

V.Mathiyazhagan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records relating to PRC.No.98 of 2022 on the file of the Judicial Magistrate-II, Nagapattinam and quash the same.

For Petitioner : Mr.S.Arivazhagan
For Respondent : No representation (Notice served)

ORDER

This petition has been filed to quash the proceedings in PRC.No.98 of 2022 on the file of the Judicial Magistrate-II, Nagapattinam, in which cognizance was taken for the offences under Sections 341, 294(b), 352 of IPC and Section 92 of Right of Person with Disabilities Act 2019.



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2. The case of the prosecution is that the petitioner has filed petition for maintenance against her husband for claiming maintenance in M.C.No.1 of 2012 on the file of the Judicial Magistrate-II, Nagapattinam. The complainant is an Advocate by profession and practising at Nagapattinam District Court and Subordinate Courts. The complainant attached with the office of one S.G.Senthilvel. The complainant at the instructions of his senior, he used to appear on behalf of the husband of the petitioner. Whenever the petitioner comes to the Court to attend the case, outside of the Court hall, the complainant used to abuse filthy language and threatened her. The complainant has exceeded his limit and unnecessarily harassed the petitioner. The complainant lodged a complaint before the Inspector of Police, Velipalayam Police Station, Nagapattinam against the petitioner alleged that on 13.02.2017 at 2.30 p.m., the petitioner had abused him in filthy language and threatened him with dire consequences and tried to attack him in the Court premises.

3. The learned counsel for the petitioners submitted that the petitioner is an innocent person and she is no way connected with the alleged offence made by the prosecution. He further submitted that against this petitioner the respondent / defacto complainant initiated the private complaint under Sections 199 & 200 of CrPC., he is an Advocate by profession and practising at



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Nagapattinam District Court. On 13.02.2017 at about 20.30p.m. the defacto

complainant stating that with the malafide intention the petitioner abused the defacto complainant by mentioning his dis-ability and also pushed him down as he was not able to walk and also alleged that the complaint would not properly appreciated by the prosecution and the date also been corrected. He further submitted that, the defacto complainant, gave a complaint at earlier point of time, against which, the prosecution laid final report only under Sections 341, 294(b), 352 of IPC and left out the Section 7(A) of Right of Person with Disabilities Act. The defacto complainant alleging that colluding with accused person the police not filed the proper final report, therefore, he filed the present complaint with including the Section 7(A) of Right of person with Disabilities Act. By challenging the said private complaint the accused person approached this Court. Already the defacto complainant gave the complaint on same allegation after investigation final report was filed in STC.No.290 of 2018 when there is no offence was made out under provision of Right of Person with Disabilities Act 2016. In order to harass her, now the present complaint was lodged for the same facts. Hence he prays to quash the proceedings.

4. No representation on the side of the defacto complainant.



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5. Admittedly, as on date the complaint given in STC.No.290 of 2018 for the same facts and occurrence is still pending and that being so now for the same facts the defcto complainant gave the private complaint is vexatious one and it is clear case of abusing process of law. Admittedly, the petitioner is a litigant in the maintenance claim and she is standing before the Court for to get remedy but the trial was dragged by the respondent, so there was wordy quarrel happened on that day. I do not find any merit in the complaint lodged by the respondent and taking advantage that he belonged to advocate by profession and he is unnecessarily dragged the litigant who approach the Court to get for maintenance. Therefore the entire proceedings in PRC.No.98 of 2022 on the file of the Judicial Magistrate-II, Nagapattinam is ordered to be quashed.

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

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Index : Yes/No
Speaking/Non Speaking order
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