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Crl.O.P.No.14 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.14 of 2023

and

Crl.M.P.Nos.21 & 23 of 2023

C.Vasanthraj

... Petitioner/Accused

Vs.

1.The State of Tamil Nadu

Rep. by the Inspector of Police

K-2, Ayanavaram,

Chennai – 600 010.

... 1st Respondent / Complainant

2.V.Kalyanasundaram

... 2nd Respondent / Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., prayed to call for records and quash the impugned Charge Sheet in C.C.No.12635 of 2022 pending on the file of the learned V Metropolitan Magistrate, Egmore.

For Petitioner : Mr. R.Veeramani

For R1 : Mr. R. Vinothraja
Government Advocate (Crl. Side)

For R2 : Mr. V. Subramani.



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ORDER

The petitioner / sole accused in C.C.N.12635 of 2022 now pending on the file of the V Metropolitan Magistrate, Egmore, Chennai, has filed the present petition taking recourse to Section 482 Cr.P.C., to interfere and call for the Charge Sheet filed in C.C.No.12635 of 2022 and to quash the same.

2.This matter should never have come either before the V Metropolitan Magistrate Court, Egmore or before this Court. It is with much surprise that I record that the matter had been pending before this Court from 22.12.2022 onwards when Crl.M.P.No.19579 of 2022 was first listed before this Court seeking to dispense with original documents before filing the Criminal Original Petition.

3.There are three persons involved. The petitioner is the accused. The 2nd respondent can be called as defacto complainant. The daughter of the 2nd respondent can be called the victim. She is affected owing to various acts committed by the accused. The accused is the son-in-law of the 2nd respondent. The word 'victim' is very specifically used, since she should have been the complainant but rather it is her father, the 2nd respondent who is the complainant.



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4.The facts are simple. The facts are brief.

5.It is the contention of the parties that the marriage between the petitioner / accused and the victim / daughter of the 2nd respondent took place on 08.07.2019. On that date, the marriage was also registered, as is evident from the extract of the Hindu Marriage Register preserved by the Marriage Register office, Anna Nagar, Chennai.

6.Thereafter, owing to various issues, there were differences between the petitioner and his wife.

7.In the complaint lodged, on the basis of which Calender Case had been taken cognizance, the 2nd respondent had stated that he and his daughter were residing at No.38C/2C. Aakash Anugraha Apartment, Solai Ammal Koil Street, Ayanavaram, Chennai – 23 and that the petitioner was working in Vellore. The daughter had a two year old child. He had been permitted to grow his hair long with intention to offer the hair to the temple. But however, since the hair was long, the young child often got cold and suffered from other similar ailments. It is further stated in the complaint that on 02.04.2022 in the night at 8.30 PM, the petitioner / accused had spoken to his wife / victim over phone and abused her and scolded her using filthy



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language. It is alleged that he had also stated to his wife / victim that he would kill the defacto complainant.

8.This conversation was through a phone exclusively between the petitioner and the daughter of the defacto complainant. It is contended by the defacto complainant / 2nd respondent that this conversation has been recorded. It had however been heard directly only by the daughter. She alone is capable and has locus to lodge a complaint. So far as the 2nd respondent / defacto complainant is concerned, he is a third party to that particular conversation. He can be termed as somebody who heard the conversation. The person who participated in the conversation had informed to him the nature of the conversation. He is what is normally called a 'hearsay' witness. He cannot claim to have any direct knowledge of any word spoken during the conversation via cell phone between his daughter and the petitioner. The daughter had not given any complaint. She is not the defacto complainant. She is not a party in C.C.No.12635 of 2022. She may be called as a witness. But she alone is competent to set the criminal law in motion, since she had directly heard the threat that the petitioner herein would kill the defacto complainant. To a limited extent, the defacto complainant could be a witness. But the fact remains he was a third party to the entire conversation.



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9.It is further stated in the complaint that there is every possibility of the petitioner coming over to Chennai and contacting the defacto complainant and his daughter. It is also mentioned that, on that particular date, the daughter of the defacto complainant was in an advanced stage of pregnancy. The only relief which he sought was that police protection must be given to him and to his daughter.

10.I am not able to understand, as to how, on the basis of this particular complaint, FIR in Crime No.190 of 2022 had been registered on 27.04.2022 under Sections 294(b) and 506(i) of IPC against the petitioner herein and how the learned V Metropolitan Magistrate, Egmore, had taken cognizance of the final report.

11.My learned predecessor has made strenuous efforts to bring about an amicable settlement between the parties, but ego had won. The efforts taken by my learned predecessor failed. It is actually observed that the 2nd respondent is controlling his daughter and the specific observation was that the *“petitioner's wife seems to be under the influence of the father / defacto complainant and that in spite of the best efforts made by this Court, no amicable settlement arrived at between the parties”*.



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12.The defacto complainant must be move out of the marriage between the petitioner and his daughter. He has no right or business to interfere with that particular marriage.

13.Whatever may be the arguments advanced by either side, since the conversation over the mobile phone was only between the petitioner and the daughter of the defacto complainant, I hold that the defacto complainant has no locus, no competency, no right in law to maintain the complaint or to maintain the Calender Case.

14.Observing as above, this Criminal Original Petition stands allowed. Further proceedings in C.C.No.12635 of 2022 on the file of the V Metropolitan Magistrate, Egmore, Chennai, stands quashed. The accused stands discharge of all offences alleged against him. Consequently, connected Criminal Miscellaneous Petitions stand closed.

26.03.2024

smv

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No



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To,

1.The V Metropolitan Magistrate, Egmore.

2.The Inspector of Police
K-2, Ayanavaram,
Chennai – 600 010.

3.The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

smv

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