



CrI.O.P.(MD)No.1753 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.1753 of 2022

and

CrI.M.P.(MD).Nos.1271 & 1274 of 2022

Syed Abuthahir

... Petitioner/Sole Accused

Vs.

1.The State rep by

The Inspector of Police,
All Women Police Station,
Palani, Dindigul District.
(In Crime No.20 of 2020)

... 1st Respondent/Complainant

2.Sharmila

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in C.C.No.15 of 2021 on the file of the Judicial Magistrate, Palani and quash the same as illegal insofar as the petitioner is concerned.

For petitioner

: Mr.B.Ramnath

For R-1

: Mr.B.Nambiselvan
Additional Public Prosecutor

For R-2

: Mr.R.Karunanidhi



ORDER

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This petition has been filed seeking to quash the charge sheet in C.C.No.15 of 2021 for the offence punishable under Sections 506 (I) and Section 4 of TNPHW Act, on the file of the learned Judicial Magistrate, Palani .

2. The case of the prosecution is that the defacto complainant is none other than the daughter-in-law of the petitioner. The petitioner tried to misbehave with the *defacto* complainant. Hence, the defacto complainant made a complaint before the respondent Police and the respondent Police registered a case in Crime No.20 of 2020 against the petitioner and on completion of investigation, the charge sheet has been filed and the same was taken on file in C.C.No.15 of 2021 on the file of the learned Judicial Magistrate, Palani, for the alleged offences punishable under Sections 506 (i) and Section 4 of TNPHW Act.

3. The learned counsel appearing for the petitioner would submit that in order to wreck vengeance against the petitioner, a false case has been registered against the petitioner and there is no specific allegation made against the petitioner.



Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not



constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.15 of 2021, pending on the file of the learned



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Judicial Magistrate, Palani. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.

7. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

30.01.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Judicial Magistrate,
Palani.
2. The Inspector of Police,
All Women Police Station,
Palani, Dindigul District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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