



Crl.O.P.(MD)No.611 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

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CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.611 of 2023

and

Crl.M.P.(MD).No.539 of 2023

Santhanaganesh

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Srivaigundam,
Thoothukudi District.
(Crime No.21 of 2022)

2.Thoppachi Nandhini

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the FIR in Crime No.21 of 2022 on the file of the first respondent Police and quash the same as illegal.

For Petitioner

: Mr.G.Karuppasamy Pandian

For R-1

: Mr.A.Albert James,
Government Advocate
(Criminal Side)

For R-2

: No Appearance



ORDER

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This Criminal Original Petition has been filed to quash the FIR in Crime No.21 of 2022 pending investigation on the file of the first respondent Police.

2. The case of the prosecution is that the petitioner and the second respondent had a love affair from the year 2020. on 13.11.2022, the petitioner called the second respondent and asked her to come to a place. Both of them were talking from 09.00 p.m. to 12.00 mid night. Suddenly, the petitioner hugged the second respondent and kissed her. Thereafter, the second respondent conveyed to her parents about this relationship and asked the petitioner to marry her. The petitioner refused to marry the *defacto* complainant and started avoiding the *defacto* complainant. It is under these circumstances, a complaint came to be given before the first respondent, which resulted in registration of an FIR for the offence under Section 354-A(1)(i) of IPC.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent Police. The second respondent has been served with notice and the name of the second respondent has also been printed in the cause list. However, there is no appearance either in person or through the counsel.



4. The petitioner is aged about twenty years and the *defacto* complainant is aged about 19 years. Admittedly, both of them had a love affair. The specific allegation made in the First Information Report is that the petitioner and the *defacto* complainant met in a lonely place and they were talking from 09.00 p.m. to 12.00 mid night. During this time, the petitioner is said to have hugged the second respondent and kissed her. Thereafter, the petitioner refused to marry the *defacto* complainant.

5. To constitute an offence under Section 354-A(1)(i) of IPC, a man must commit a physical contact and make advances involving unwelcome and explicit sexual overtures. Even if the allegations are taken as it is, it is quite natural for two persons in the teenage, who are having a love affair to hug or kiss each other. By no stretch, this can constitute an offence under Section 354-A(1)(i) of IPC.

6. In view of the above, no offence has been made out against the petitioner even if the allegations made in the First Information Report are taken as it is. Therefore, the continuation of the criminal proceedings against the petitioner will result in abuse of process of law.

7. When the Criminal Original Petition was entertained by this Court, the respondent Police was specifically directed not to file a final



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report. However, the respondent Police has completed investigation and filed a final report before the learned Judicial Magistrate No.I, Srivaigundam, which has been taken on file in C.C.No.70 of 2024. It is now well settled that even where the quash petition is filed to quash the First Information Report and a final report is filed, which is taken cognizance, this Court can still exercise its jurisdiction under Section 482 of Cr.P.C. and quash the proceedings itself, if a case is made out.

8. In view of the same, this Court is inclined to exercise its jurisdiction under Section 482 of Cr.P.C. and quash the proceedings pending on the file of the competent Court.

9. In the result, the proceedings against the petitioner in C.C.No.70 of 2024 on the file of the learned Judicial Magistrate No.I, Srivaigundam, is hereby quashed and this Criminal Original Petition is allowed accordingly. Consequently, connected miscellaneous petition is closed.

04.11.2024

Index : Yes/No
Internet : Yes/No
TSG



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To

1.The Judicial Magistrate No.I,
Srivaigundam.

2.The Inspector of Police,
All Women Police Station,
Srivaigundam,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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N.ANAND VENKATESH. J.

TSG

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