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Crl.O.P.(MD)No.4972 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.4972 of 2022

and

Crl.M.P.(MD).No.3514 of 2022

Ajithkumar

... Petitioner/Sole Accused

Vs.

1.State Rep. by
The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District,
Kanyakumari.
Crime No.41 of 2019

2.R.Abisha

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the final report in C.C.No.54 of 2020 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District, in Crime No.41 of 2019, dated 10.09.2019 on the file of the first respondent and quash the same as illegal.

For petitioner : Mr.T.Aswinrajasimman

For R-1 : Mr.P.Kottaichamy
Government Advocate (Criminal Side)

For R-2 : Mr.T.Wins



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.54 of 2020 pending on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District.

2.The case of the prosecution is that there was a pathway dispute between the petitioner's family members and the defacto complainant's family members. When the defacto complainant was going to her college, the petitioner restrained her and abused her in filthy language. Thereby, the second respondent lodged a complaint before the first respondent and the same was registered in Crime No.41 of 2019 against the petitioner and thereafter, the first respondent Police conducted the investigation and on completion of investigation, the charge sheet has been filed before the learned Judicial Magistrate, Eraniel, Kanyakumari District and the learned Judicial Magistrate has taken cognizance in C.C.No.54 of 2020 for the alleged offence punishable under Sections 294(b), 341 and 506(ii) of IPC.

3.The learned counsel appearing for the petitioner would submit that it is a counter case and the FIR in Crime No.42 of 2019 was registered against the defacto complainant and her family members and



in that case, final report has already been filed before the concerned court and it was challenged before this Court in Crl.O.P.(MD)No.10885 of 2021. He would further submit that the petitioner is innocent and he has been falsely implicated in this case and there is no specific allegation made against the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in



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6.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.54 of 2020, pending on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7.At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration of the request 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.

16.02.2024

Index : Yes/No
Internet : Yes/No
NCC: Yes/No
SJI



To

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- 1.The Judicial Magistrate, Eraniel, Kanyakumari District.
- 2.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District,
Kanyakumari.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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