



Crl.O.P.(MD) No.7919 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.7919 of 2021

and

Crl.M.P.(MD) Nos.4057 & 4058 of 2021

Nagarajan

... Petitioner / 1st Accused

Vs.

1.The State rep by
The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.
(Crime No.67 of 2018)

... 1st Respondent /complainant

2.Amsathya Begam

... 2nd Respondent / Defacto
complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the entire records relating to the impugned charge sheet in C.C.No.493 of 2019 on the file of the learned Judicial Magistrate Court, Paramakudi and to quash the same.

For Petitioners : Mr.M.S.Jeyakarthik

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

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The present Criminal Original Petition is filed by the petitioner seeking to quash the final report, in C.C.No.493 of 2019, on the file of the Judicial Magistrate Court, Paramakudi.

2. The case of the prosecution, in a nutshell, is as follows:

On 21.04.2018, at about 06.00 p.m, the defacto complainant and her husband were returning home in a two wheeler bearing Reg.No.TN-65-U-1010. When they were nearing their house, the present petitioner, who came in a car bearing Reg.No.TN-59-AR-1730, intercepted the two wheeler and threatened the defacto complainant that she should not have any extra marital relationship with his brother and also abused her in filthy language. He also criminally intimidated her and threatened her with dire consequences. Based on the complaint given by the defacto complainant, the Sub Inspector of Police, Emaneswaram Police Station, Ramanathapuram District, registered an FIR in Crime No.67 of 2018 for the offences punishable under Sections 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002 against the present petitioner and four others. After concluding investigation, a final report in C.C.No.493 of 2019 was filed against the present petitioner



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alone for the alleged offences punishable under Sections 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002.

3. Mr.M.S.Jeyakarthik, learned counsel appearing for the petitioner drew the attention of this Court to the statement of the defacto complainant recorded by the police under Section 161(3) Cr.P.C., and contended that the defacto complainant has not averred the specific abusive language and that though the FIR, speaks about the involvement of the present petitioner along with four other persons, who allegedly travelled in the car, the defacto complainant had subsequently changed her versions. Therefore, the final report cannot stand for a moment's scrutiny. He would also contend that the learned Judicial Magistrate, Paramakudi, while taking cognizance of the offence had merely signed on a rubber stamp affixed in the place of written orders and this would clearly to show the non-application of mind by the learned Judicial Magistrate, Paramakudi. Therefore, he prayed for quashing the final report.

4.Per contra, Mr.R.M.Anbunithi, learned Additional Public Prosecutor appearing for the first respondent would contend that the



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police after conducting proper investigation, laid a final report and therefore, there is no good ground to quash the same.

5.In the statement of the defacto complainant recorded by the respondent police on 28.04.2018 under Section 161 (3) Cr.P.C., shows the defacto complainant had averred that the present petitioner as well as the four accused came down to her house by driving a car and abused her in filthy language and also threatened her with dire consequences. Subsequently, in her further statement on 15.11.2018 she had changed her version and stated that except the petitioner, other persons did not pick up any quarrel with her. A perusal of the First Information Report and the final Report (which includes the statement recorded under Section 161 Cr.P.C.,) *prima facie* shows that the defacto complainant was abused in filthy language and was also threatened with dire consequences. The police after conducting investigation deleted the names of the other accused and filed a final report against the present petitioner alone for the offences under Sections 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. It is pertinent to point out that a statement recorded by the police under Section 161(3) Cr.P.C., is inadmissible in evidence. On the contrary, the complaint



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lodged by the defacto complainant is admissible in evidence and the truth or otherwise of the allegations made in the complaint can be tested only during the course of trial. In the circumstances, I do not see any reason to quash the final report in C.C.No.493 of 2019 on the file of the Judicial Magistrate Court, Paramakudi.

6. Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

04.03.2024

Index : Yes/ No
Internet : Yes/No
NCC : Yes / No
dss



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R.HEMALATHA, J.

dss

To

- 1.The Judicial Magistrate Court,
Paramakudi.
2. The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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