



Crl.O.P.(MD).No.16346 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.12.2024

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.16346 of 2022

and

Crl.M.P.(MD).No.10868 of 2022

Rajasekara Pandiyan

...Petitioner/Sole Accused

Vs.

1.The State Rep. by
The Inspector of Police,
Kadaladi Police Station,
Crime No.260 of 2020.

...Respondent/Complainant

2.Vijila

...Respondent/De-facto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and to quash the charge sheet pending before the District Munsif cum Judicial Magistrate Court, Kadaladi in P.R.C No. 5 of 2022.

For Petitioner : Mr.Mr.M.Ajmal Khan,
Senior Counsel
for K.Sudalaiyandi

For R1 : Mr.A.Albert James,
Government Advocate(Crl.side)

For R2 : Mr.N.Mohideen Basha



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ORDER

This petition has been filed to quash the proceedings in P.R.C. No.5 of 2022 pending on the file of the District Munsif cum Judicial Magistrate Court, Kadaladi.

2. The second respondent gave a complaint to the first respondent on the ground that she had a love affair with the petitioner and the petitioner on a false promise to marry, had physical relationship with the second respondent. Ultimately, the petitioner started evading the second respondent and refused to marry her. Based on this complaint, an FIR came to be registered in Crime No.260 of 2020 by the first respondent. On completion of investigation, a Police report has been filed before the learned District Munsif cum Judicial Magistrate, Kadaladi, for the offences under Sections 417 and 376 of IPC. The Court below has taken cognizance of the offence and the case has been taken on file in P.R.C.No.05 of 2022. Aggrieved by the same, the present Quash Petition has been filed before this Court.

3. Heard the learned counsel on either side.

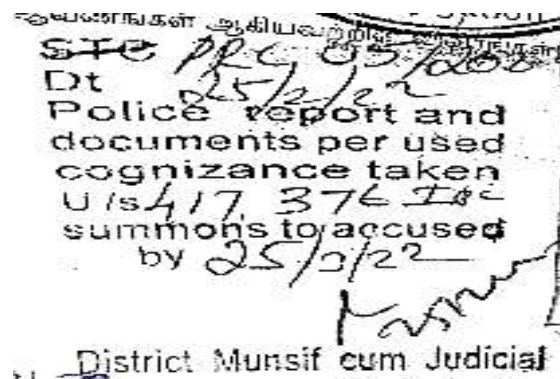


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4. The submissions were made touching upon the merits of the case and also on the ground that even if the materials are taken as it is, no offence has been made out against the petitioner.

5. It is not necessary for this Court to go into the issue on merits and this Court finds that the Court below has taken rubber stamp cognizance of the Police report filed by the first respondent. For proper appreciation, the Cognizance Order is scanned and extracted hereunder:



6. This Court by relying upon the judgment of the Hon'ble Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp



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cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in ***Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others***, reported in ***(2019) 3 MLJ (Crl.) 339***. The Hon'ble Apex Court also dealt with this issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in ***(2008) 1 SCC (Crl.) 471***.

7. In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the learned District Munsif cum Judicial Magistrate, Kadaladi and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

11.12.2024

Index : Yes/No
Internet : Yes/No
TSG



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To

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- 1.The District Munsif cum Judicial Magistrate Court, Kadaladi.
- 2.The Inspector of Police,
Kadaladi Police Station.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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N.ANAND VENKATESH.J.,

TSG

Order made in
Crl.O.P.(MD).No.16346 of 2022

Dated :
11.12.2024