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CrI.O.P.(MD)No.6352 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.03.2024**

CORAM:

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

CrI.O.P.(MD) No.6352 of 2022

and

CrI.M.P.(MD).No.4411 of 2022

Veera Manikandan

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.

... 1st Respondent/Complainant

2.Chinnaponnu

... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the charge sheet filed against the petitioner in C.C No.227 of 2021 on the file of the learned Judicial Magistrate, Valliyoor in respect of Crime No. 204 of 2019 on the file of the 1st respondent police.

For petitioners : Mr.Arumugam.H

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

For R-2 : No Appearance



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Crl.O.P.(MD)No.6352 of 2022

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.227 of 2021 pending on the file of the learned Judicial Magistrate, Valliyoor.

2.The case of the prosecution is that the petitioner is the younger brother's son of the defacto complainant's husband. Due to the family dispute, on 22.06.2019, when the defacto complainant was standing near Valliyoor bus stand, the petitioner abused her using filthy language and threatened her with dire consequences. Hence, the second respondent made a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.204 of 2019 against the petitioner and the respondent Police conducted the investigation and on completion of investigation, the charge sheet has been filed before the learned Judicial Magistrate, Valliyoor and the same was taken cognizance in C.C.No.227 of 2021 for the alleged offence punishable under Sections 294(b) and 506 (i) of I.P.C and Section 4 of TNPHW Act.

3.The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioner. Further there is delay in filing the First Information Report. Actually it is alleged



that on 29.05.2019 at about 11.00 p.m., the petitioner went to the defacto complainant's house and scolded her using filthy language, but the First Information Report has been registered only on 23.06.2019. The delay in filing First Information Report is not explained by the defacto complainant. Further, the offences under Section 294(b) and 506(i) of IPC are not attracted to the present case.

4.The learned Government Advocate (Crl. Side) would submit that there is no delay in filing the First Information Report. Though the petitioner stated that on 29.05.2019, the said incident was happened, but the defacto complainant made a complaint on 22.06.2019, on perusal of the complaint given by the defacto complainant make it clear that on 29.05.2019 at about 11.00 p.m., the petitioner came to her house and scolded her in filthy language and subsequently, on 22.06.2019 at about 11.00 p.m., again the petitioner went to the house of the defacto complainant and scolded her using filthy language. Thereby, the FIR has been registered on the next day (I.e) on 23.06.2019. Further, 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 has to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.



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5.In the above circumstances, the disputed question of facts cannot be tried before this Court and it can be tried before the concerned trial Court at that time of trial. 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 their defence. The petitioner cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

6.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.227 of 2021, pending on the file of the learned Judicial Magistrate, Valliyoor. 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



CrI.O.P.(MD)No.6352 of 2022

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 their 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 their appearance on those days.

12.03.2024

Index : Yes/No

Internet : Yes/No

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To

- 1.The learned Judicial Magistrate,
Valliyoor.
- 2.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.6352 of 2022

M.DHANDAPANI. J.

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Crl.O.P.(MD)No.6352 of 2022

12.03.2024