



Crl.O.P.(MD) No.20758 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.20758 of 2021

and

Crl.M.P.(MD) No.11834 of 2021

M.Narayanan

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Suthamalli Police Station,
Tirunelveli District.
(Crime No.263 of 2012)

2.Durga Parameshwari

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.2 of 2020 on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli District and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.R.L.Dhilipan Pandian

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

For R2 : No appearance



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ORDER

WEB COPY Seeking to quash the final report in C.C.No.2 of 2020 on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, the present Criminal Original Petition is filed.

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

(i) On 30.06.2012, at about 09.30 a.m., when the second respondent (*de facto* complainant) was riding her two wheeler, A1 pushed her down and the other accused attacked her with a wooden log and all the accused abused her in filthy language.

(ii) Based on the complaint given by the *de facto* complainant on 01.07.2012, the Special Sub-Inspector of Police, Suthamalli Police Station, registered F.I.R. in Crime No.263 of 2012 against all the 4 accused including the present petitioner who is arrayed as A4, for the offences punishable under Sections 323 & 294(b) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The Sub-Inspector of Police after concluding investigation laid a final report before the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli District against all the accused for the aforesaid offences.



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3. Mr.R.L.Dhilipan Pandian, learned counsel for the petitioner drew the attention of this Court to the F.I.R., wherein, the *de facto* complainant had stated that the present petitioner (A4) pelted stone on her abdomen, as a result of which, she sustained injuries. However, in her statement recorded by the police under Section 161(3) of Cr.P.C., she had stated that the present petitioner (A4) did not commit any offence and this would go to show conduct of the *de facto* complainant and 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 police after conducting proper investigation laid the final report and therefore, there are no good grounds to quash the same.

5. It is pertinent to point out that in the complaint, the *de facto* complainant had made specific allegations against the present petitioner (A4). According to her, the present petitioner pelted stone on her abdomen, as a result of which, she sustained injuries. She was immediately taken to the Hospital on the date of occurrence i.e., 30.06.2012. Dr.A.Sathish Rajan, Civil Assistant Surgeon attached to



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Tirunelveli Medical College Hospital, Tirunelveli examined the *de facto* complainant on 30.06.2012 at about 09.30 a.m. The *de facto* complainant had complained to the doctor that she was attacked by 4 persons and one of them pelted stone on her abdomen. The doctor had also opined that the injuries sustained by the *de facto* complainant is simple in nature.

6. Though in the statement under Section 161(3) of Cr.P.C., the *de facto* complainant had stated that the present petitioner (A4) did not commit any offence, the same cannot be taken into consideration at this stage, because, the statement recorded by the police under Section 161(3) of Cr.P.C. is not admissible in evidence. In the complaint, the *de facto* complainant had clearly narrated the sequence of the events and had made a specific allegation against the present petitioner (A4) that he pelted stone on her abdomen.

7. F.I.R. and the statements records by the police under Section 161(3) of Cr.P.C. and other documents form part of the final report and therefore, merely based on the Section 161(3) of Cr.P.C. statement, this Court cannot come to a conclusion that the present petitioner (A4) did not commit the offences punishable under Sections 323 & 294(b) of IPC and



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Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

Therefore, I do not see any reason to quash the final report.

8. At the request of the learned counsel for the petitioner (A4), the personal appearance of the petitioner before the trial court is dispensed with. However, he should appear before the trial court as and when his appearance is required by the court.

9. In the result, this Criminal Original Petition is dismissed with the above liberty. Consequently, connected Miscellaneous Petition is closed.

28.02.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
JEN

To:

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



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R.HEMALATHA, J.

JEN

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