



Crl.O.P.(MD)No.21553 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21553 of 2024
and Crl.M.P(MD).Nos.13352 and 13355 of 2024

1.Devarajan

.. Petitioner

Vs.

State of Tamil nadu

rep., by

1.The Inspector of Police,

Eral Police Station,

Thoothukudi.

Crime No.229 of 2019

2.Mercy Evanjalín

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the petition in CC.No.214 of 2023 on the file of the learned Judicial Magistrate No.II, Srivaikundam and quash the same as illegal against the petitioner/accused No.1.

For Petitioner : Mr.R.Raghaev

For Respondent : Mr.A.Thiruvadikumar
Additional Public PRosecutor



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ORDER

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The petitioner, who is A1 in CC.No.214 of 2023 and facing trial for the offence under Sections 506(2), 354 A(1)(i), 294(b) and 341 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, had filed this quash petition.

2. The case projected against the petitioner and two others is that the defacto complainant was granted Rs.2,90,000/- for her B.Ed course, for getting the same through Educaiton Department, she approached the accused, namely, the petitioner/A1, who is the School Head Master, second accused, who is the Secretary of School and third accused, who is the Sewing teacher in the school, but they had demanded commisison for the same. In pursuant to that, on 07.12.2019, the petitioner along with two other accused had restrained the vitim to enter the school, abused her, called her in her caste name and also threatened her. Hence, she lodged a complaint.

3. The contention of the petitioner is that in this case, the third accused, Sewing teacher, is no more. Now, the case is projected against the petitioner and the second accused. The petitioner is said to have



demanding commission for arrear increment ordered to be paid to the defacto complainant, which is only an omnibus general allegation and there is no specific overt act with regard to allegation, which taken place on 07.12.2019. Further submitted that the petitioner as the Headmaster has got control over the school and have every right to ascertain the movement of the person inside the school. Hence, no offence is made out.

4. The learned Additional Public Prosecutor, on the other hand, strongly opposed the petitioner's contention stating that when the victim approached the accused, they joined together assaulted and abused her. The victim was granted Rs.2,90,000/- as grant, for which, the petitioner wanted share and commission, which was not agreed by the victim. Hence, she was constantly harassed. The petitioner was abused harassed in front of others, for which, there are witnesses, who clearly stated about the petitioner's overt act. Further, the points raised by the petitioner are factual, which cannot be decided in the quash petition and it has to be necessarily considered only during trial. Finding that, on the complaint of the defacto complainant, FIR registered, thereafter, on conclusion of investigation, charge sheet filed listing 11 witnesses. Apart from the victim/ defacto complainant, there are other witnesses, who confirmed the statement of the defacto complainant.



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5. In view of the above, this Court is not inclined to entertain this petition. The learned counsel for the petitioner, at this stage, submitted that the petitioner's presence before the trial Court may be dispensed with. Considering that there is no dispute of identity, the petitioner to file a petition before the trial Court giving an undertaking that he would not dispute his identity, he will not be a reason for any delay, the witnesses would be cross-examined then and there and in future, he would not question regarding the evidence in their absence and he would be represented by his counsel and also, he would be appeared before the trial Court as and when the trial Court directs to appear. On such application is being made, the trial Court can dispense with the petitioner's presence.

6. With the above direction, this Criminal Original Petition is dismissed. It is made clear that the observation made in this petition is only to limited purpose of disposing this petition, the trial Court to dispose of the case on its own merits and in accordance with law. Consequently, connected Miscellaneous Petitions are closed.

10.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
Rmk



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To

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- 1.The Judicial Magistrate No.II, Srivaikundam.
- 2.The Inspector of Police,
Eral Police Station,
Thoothukudi.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

Rmk

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