



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03/04/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.1549 of 2023

and

Cr1.MP(MD)Nos.1326 and 1327 of 2023

V.Stalin Elanchezhian : Petitioner/Accused

Vs.

1.The State represented by
The Inspector of Police,
Suchindram Police Station,
Kanyakumari District. : R1/Complainant

2.T.Iyyappan : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to STC No.2510 of 2022 on the file of the Judicial Magistrate Court No.III, Nagercoil, Kanyakumari and quash the same and pass such further or other orders.

For Petitioner : Mr.V.Kathirvelu
Senior Counsel
for Mr.T.Sakthi Kumaran

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

WEB COPY

This criminal original petition has been filed seeking quashment of STC No.2510 of 2022 on the file of the Judicial Magistrate Court No.III, Nagercoil, Kanyakumari.

2.The case of the prosecution in brief:-

The accused belongs to Christian community. The de-factco complainant lodged a complaint stating that he is the Panchayat Head of Parappuvilai Village. The village is having a temple called 'Mutharamman kovil', which is 100 years old and daily poojas are performed and during that time, several songs were also playing through loudspeaker. The accused, some six months prior to the occurrence, purchased the property adjacent to the temple and constructed a house. He used to oppose for playing the religious songs in the loudspeaker and also used to pick up quarrel frequently. On 18/08/2022 at about 04.45 am, he again picked up quarrel against the playing of religious songs, abused in fifthly language and also criminally intimidated, over the playing of songs in the loudspeaker system in the temple. On the basis of the



complaint, a case was registered in Crime No.447 of 2021 for the offence under sections 294(b) and 506(i) IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in STC No. 2510 of 2022 by the Judicial Magistrate No.III, Nagercoil, Kanyakumari.

3. Seeking quashment of the same, this petition has been filed on the ground that none of the allegations mentioned in the final report attract any of the ingredients of the offences under sections 294(b) and 506(i) IPC. Originally, the complaint was registered in CSR No.632 of 2021, on 24/09/2021.

4. During the investigation stage, he filed a petition seeking quashment in CrI.OP(MD)No.1968 of 2022. Interim stay was granted. But, later that was not extended. So, final report was filed. On that ground, CrI.OP(MD)No.1968 of 2022 was dismissed granting liberty to the petitioner to work out his remedy through appropriate proceedings.



5. Perusal of the CD file shows that a simple problem arose between the parties over using of sound system in the temple. Except that, it appears that there is no big issue between the de-facto complainant and this petitioner. It is also stated that the petitioner belongs to Hindu community, for which, he has also produced the birth certificate showing that absolutely, there is no motive for him to make objection for playing the songs during the festival session. On 15/08/2021, he sent a complaint to the Tamil Nadu Chief Minister's Special Cell stating that because of the use of the loudspeaker beyond the permitted level, the above said people creating nuisance. His complaint was forwarded to the Inspector of Police, attached to Suchindram Police Station. Wherein it has been stated that on the enquiry undertaken on 24/09/2021, the temple management undertook that they will not play the song in a loud manner. On the basis of the undertaking given by the temple management, the complaint given by this petitioner was withdrawn. Ironically, on 25/09/2021 itself, the case has been registered, on the basis of the complaint given by the counter party namely Iyyappan. The date of complaint is stated to be 25/09/2021, after closure of the complaint



given by this petitioner. So, this clearly shows that the complaint given by the de-facto complainant is totally a *mala fide* one. He has stated in the complaint that the occurrence took place, on 12/08/2021 at about 04.45 pm. But, on 24/09/2021, an undertaking was given by the de-facto complainant that they will not create any nuisance. Had it been true that on 12/08/2021, he was criminally intimidated and abused, the de-facto complainant would have stated the same thing before the Enquiry Officer. After enquiry on 24/09/2021, the subsequent event shows that it is a clear abuse of process of court and law. On that sole ground, without going to other aspects, the entire prosecution is liable to be quashed as abuse of process of court and law.

6.In the result, this criminal original petition is **allowed**. The STC No.2510 of 2022 on the file of the Judicial Magistrate Court No.III, Nagercoil, Kanyakumari is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Index:Yes/No
Internet:Yes/No

03/04/2023

er



WEB COPY

To,

- 1.The Judicial Magistrate No.III,
Nagercoil.
- 2.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.



WEB COPY



7

G.ILANGOVAN, J

er

Cr1.OP(MD)No.1549 of 2023

03/04/2023