



Crl.O.P.(MD).No.3152 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders reserved on : 30.10.2024

Orders pronounced on : **29.11.2024**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD).No.3152 of 2023
and Crl.M.P.(MD).Nos.2884 and 2885 of 2023

Tamil Rajendran @ R.Rajendran .. Petitioner

Versus

1. State represented through the
Deputy Superintendent of Police,
Karur Town Sub-Division,
Karur District.

2. The Inspector of Police,
Thanthonimalai Police Station,
Karur District.

3. Raja .. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the impugned Final Report filed in S.C.No.49 of 2021 on the file of the Principal District Court/Special Court for SC and ST (Prevention of Atrocities) Act Cases, Karur in connection with Crime No.448 of 2020 on the file of the respondent Police Station and quash as against the petitioner concerned.

For Petitioner : Mr.Henri Tiphagne



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For Respondents : Mrs.M.Aasha,
Government Advocate (Crl. Side),
for RR-1 and 2

: No Appearance for R3

ORDER

Heard *Mr.Henri Tiphagne*, learned Counsel for the petitioner and *Mrs.M.Aasha*, learned Government Advocate (Crl. Side) for the respondent Nos.1 and 2.

2. This Criminal Original Petition is filed with a prayer to quash the Final Report filed in S.C.No.49 of 2021 on the file of the Principal District Court/Special Court for SC and ST (Prevention of Atrocities) Act Cases, Karur.

3. The brief facts leading to the filing of this application are that the second respondent Police received a piece of information on 31.07.2020. Therefore, they visited the hospital, where, the *de facto* complainant was admitted as an inpatient in Room No.201. The *de facto* complainant stated that he is an Advocate. One *Thangamani*, residing at Thanthonimalai and one *Pavithra*, belonging to a different caste, got married at Vellayan Vinayagar temple on 19.06.2020. Both of them filed a Protection Petition



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before the All Women Police Station, Thanthonimalai and both of them were produced before the said Police Station and thereafter, upon protection, both of them were allowed to go.

4. Under these circumstances, on 27.07.2020, the said *Thangamani* lodged a false complaint before the Superintendent of Police of the district. On the said complaint, the Inspector of Police, Thanthonimalai Police Station, called the *de facto* complainant for an enquiry. In the enquiry, the *de facto* complainant stated that he had nothing to do with the said complaint and based on the professional rivalry and vendetta, a false complaint was given against him. Stating so, he went back to his office. On 30.07.2020, when the *de facto* complainant was in his office at about 2.20 P.M., the petitioner, *Tamil Rajendran*, contacted him over the phone and instructed him to come to his office. He went to his office along with his relative *Kirubananth*. The said *Kirubananth* stood outside and the *de facto* complainant went into the office of *Tamil Rajendran*. *Tamil Rajendran* alone was present in his office at that time. Upon seeing him, he asked the *de facto* complainant to come and sit. He stated that he would look after the *Thangamani's* case.



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5. He further submitted that to wreak vengeance against him, another Advocate belonging to the *de facto* complainant's political party namely, *Ramachandran*, entrusted the case to him. He further castigated the *de facto* complainant by stating that only because there was reservation, the *de facto* complainant became Advocate and scolded him with the words '*****' and called him a bastard and that he should be finished. Even while saying so, *Tamil Rajendran* slapped on his cheek and pushed him down. The *de facto* complainant got pain in his shoulder. When he came out of the office, *Tamil Rajendran* also followed him out and in the public place, outside his office, again yelled by mentioning his caste name as belonging to the said caste, whether he could conduct the case as opposed to him and thus, abused him by using his caste name. Thereafter, the *de facto* complainant told his relative, *Kirubananth*, that as the accused *Tamil Rajendran* hit him, he was feeling a little giddy. Therefore, *Kirubananth* took him to the hospital and admitted him and hence, he lodged the complaint.

6. On the strength of the said complaint, a case in Crime No.448 of 2020 under Sections 294(b), 323, 506(1) of the *Indian Penal Code* read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015* and



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Sections 120B and 109 of the *Indian Penal Code* was registered. Thereafter, the first respondent took up the investigation and after the investigation, laid the Final Report. The petitioner herein, made serious allegations of malafide against the *de facto* complainant, and yet another Advocate. Hence, by the proceedings bearing Reference No.C.No.429/Camp/IGP/CZ/2021, dated 14.12.2021, the Inspector General of Police, Central Zone, Trichy, directed the first respondent to take up further investigation concerning further evidence handed over by the accused/petitioner *Tamil Rajendran* and file an additional report under Section 173(8) of the *Code of Criminal Procedure*.

7. Pursuant thereto, the statement of the petitioner herein was also recorded. The audio recording of the telephonic conversation, which is said to have happened between the petitioner and the *de facto* complainant, were also handed over. Two other persons, who are supposed to have presented in the office of the petitioner *Tamil Rajendran* at the time of the incident namely, one *Shanmugam* and one *Anand Raj* were also examined and their statements, along with the audio recording and the telephonic conversation between the petitioner and the *de facto* complainant were forwarded as the additional materials to the Court forming the part of the Final Report. It is at this stage, that the present petition is filed.



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8. Firstly, the petitioner seeks quashing of the case on the ground that the entire case is an abuse of process of law engineered by one *Marappan*. The *de facto* complainant, on his instructions and support, gave the false complaint willfully against the petitioner. The second contention is that the case, as such, is replete with inherent contradictions and the Final Report, filed by the first respondent is not at all sustainable.

9. Detailed arguments are made by the learned Counsel concerning malafide by referring to several other proceedings, including Bar Council proceedings etc. However, I am inclined to consider the same since the said *Marappan* is not a party to these proceedings, while, all the allegations are made against him with reference to engineering a malafide complaint. Therefore, the only question, that has to be considered is whether there are *prima facie* materials against the petitioner to proceed with the complaint by taking the materials at face value.

10. In this regard, the entire complaint of the de facto complaint, word by word, is narrated above in the facts. The Final Report is filed after investigation. The first respondent/Investigating Officer found that the *de*



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facto complainant belongs to the Scheduled Caste. The first accused, *Ramachandran*, who also belongs to the Scheduled Caste, had previous enmity with the *de facto* complainant as both of them belong to the same political party and there was a rivalry. As per the Final Report, one *Thangamani* got married to one *Pavithra*. Thereafter, the said *Thangamani* complained on 25.06.2020 vide Petition No.292 of 2020 before the All Women Police Station, Karur. In the said complaint, *Raja* appeared for *Thangamani*. Towards his legal fee, the Motor Bike, belonging to one *Ayyasamy*, which was being used by the said *Thangamani*, was pledged. In the said issue, the first accused namely, *Ramachandran* intervened in favour of *Thangamani* prepared the complaint obtained the signature of *Thangamani* and lodged the same with the Police and both of them had previous enmity.

11. Pursuant thereto, on 29.07.2020, at about 2.00 P.M., the first accused *Ramachandran* and the second accused, *Tamil Rajendran* indulged in a conspiracy against the *de facto* complainant, *Raja*. To wreak vengeance, *Ramachandran* sent *Thangamani* to *Tamil Rajendran* and instructed him to continue the case. *Tamil Rajendran* further proceeded against the *de facto* complainant, *Raja*. On the date of occurrence i.e., on 30.07.2020 at 2.20



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P.M., *Tamil Rajendran* contacted the *de facto* complainant, *Raja* over the phone and instructed him to come to his office. When the *de facto* complainant, *Raja* went to his office, in a disrespectful language he instructed him to come and sit. Thereafter he threatened him in the manner as narrated in the F.I.R and slapped him inside his office and thereafter, followed him outside his office and vilified him by using his caste name hence the Final Report is filed under Sections 294(b), 323, 506(1) of the *Indian Penal Code* read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015* and Sections 120B and 109 of the *Indian Penal Code*.

12. Concerning the incident, it can be seen that in the statement of *Raja*, he does not mention the complaint given by the mother of the said *Pavithra*, but, however, he stated that a petition for protection was given on 19.06.2020. Thereafter, *Thangamani* lodged a complaint on 27.07.2020 and he appeared before the Inspector of Police for enquiry on 31.07.2020 and submitted that he had nothing to do with the complaint. In this regard, the first respondent himself seems to have examined the said *Thangamani*. The said *Thangamani* states as follows:-



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"நான் வக்கீல் ராஜா என்பவர் மூலம் கீரூர் அனைத்து மகளிர் காவல் நிலையத்தில் காவல் ஆய்வாளர் அவர்கள் விசாரணைக்கு ஆஜரானேன். எனக்கு 21 வயது பூர்த்தி ஆகவில்லை என்பதால் நான் திருமணம் செய்தது சரியல்ல என்று காவல் ஆய்வாளர் அறிவுரை வழங்கியதால் பவித்ரா அவரது விருப்பப்படி அவர் தோழியுடன் சென்றுவிட்டார். எனக்கு வழக்கறிஞராக வந்த ராஜா என்பவர் கூடுதலாக வக்கீல் பீஸ் கேட்டதால் நான் ஓடிவந்த அய்யாச்சாமி என்பவரது இரண்டு சக்கர வாகனத்தை எடுத்துக்கொண்டார். அதனால் அய்யாச்சாமி என்பவர் வழக்கறிஞர் ராமச்சந்திரன் என்பவர் மூலம் வழக்கறிஞர் ராஜா மீது புகார் கொடுப்பதற்காக என்னையும் அழைத்து வந்து காவல்துறை உயர் அதிகாரியிடம் புகார் கொடுத்தார். அந்த புகாரை ராமச்சந்திரனே தயார் செய்து வந்து அதில் என்னிடம் கையெழுத்து வாங்கினார். அந்த புகாரில் வழக்கறிஞர் ராஜா மீது நடவடிக்கை எடுக்குமாறு எழுதியிருந்தார். அதன் பின்பு என்னை வழக்கறிஞர் ராச்சந்திரனே வழக்கறிஞர் தமிழ் ராஜேந்திரன் என்பவரிடம் கேஸ் நடத்துவதற்கு அனுப்பி வைத்தார்"

13. The first respondent also examined the owner of Motor Bike,

Ayyasamy, who had stated as follows:-

" எங்க தெருவில் வசிக்கும் தங்கமணி என்பவர் எனக்கு பழக்கமானவர் அவர் வேலைக்கு செல்வதற்காக இரண்டு சக்கர வாகனம் லோனில்



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வாங்க வேண்டும் என்று கேட்டுக்கொண்டதால் நான் இந்த வருஷம் மார்ச் மாதம் எனது பெயரில் இரண்டு சக்கர வாகனம் லோன் போட்டு வாங்கி அந்த வண்டிக்கு மாதாமாதம் தங்கமணி பணம் கட்டும் வகையில் வாங்கி கொடுத்து அந்த வண்டியை தங்கமணி ஓட்டி வந்தார். இந்நிலையில் தங்கமணி ஜூன் மாதம் தனக்கு தெரிந்த பவித்ரா என்ற பெண்ணை காதல் திருமணம் செய்து கொண்டதால் பவித்ராவின் அம்மா கரூர் அனைத்து மகளிர் காவல் நிலையத்தில் புகார் கொடுத்து அதனால் ஏற்பட்ட பணப்பிரச்சனைக்காக ராஜா என்பவர் எனது பெயரில் இருந்த வண்டியை அடகு வைத்துவிட்டதாகவும் அதற்காக தங்கமணிக்கு ஆதரவாக வக்கீல் ராமச்சந்திரன் என்பவர் ராஜா மீது போலீஸில் புகார் கொடுத்திருப்பதாகவும் அதனால் அவர்களுக்குள் பிரச்சனை ஏற்பட்டதாகவும்"

Thus, the only conclusion the first respondent Investigating Officer ought to have made is that whatever the *de facto* complainant stated in the complaint, as if a false complaint is lodged against him, is incorrect and to pay the Advocate fees, he pledged the Bike belonging to a third person namely, *Ayyasamy* which was used by the said *Thangamani*.

14. However, the Final Report proceeds on the following lines:-

" இதில் தங்கமணி தரப்பில் ஆஜரான வழக்கறிஞர் திரு.ராஜாவுக்கு வழக்கறிஞர் கட்டணம்



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கொடுப்பதற்காக தங்கமணி பயன்படுத்தி வந்த திரு.அய்யாச்சாமி என்பவருக்கு சொந்தமான இரண்டு சக்கர வாகனத்தை அடகு வைத்து வழக்கறிஞர் கட்டணம் கொடுத்ததால் வாகனத்தின் உரிமையாளரான திரு.அய்யாச்சாமி என்பவருக்கு ஆதரவாக வழக்கறிஞர் திரு.க.ராமச்சந்திரன் தலையிட்டு அவரே வழக்கறிஞர் திரு.ராஜா மீது புகார் தயார் செய்து தங்கமணியிடம் கையெழுத்து பெற்று வழக்கின் புகார்தாரரான வழக்கறிஞர் திரு.ராஜா மீது புகார் தயார் செய்து தங்கமணியிடம் கையெழுத்து பெற்று வழக்கின் புகார்தாரரான வழக்கறிஞர் திரு.ராஜா மீது மாவட்ட காவல் கண்காணிப்பாளரிடம் புகார் கொடுத்ததாலும், வழக்கறிஞர் திரு.ராஜா என்பவருக்கும் வழக்கறிஞர் திரு.க.ராமச்சந்திரன் என்பவருக்கும் கட்சி ரீதியாகவும் பிரச்சனை இருந்து வந்ததால் இருவருக்கும் ஏற்கனவே முன்விரோதம் இருந்து வந்துள்ளது."

Thus, it can be seen that the first respondent manoeuvres the same without arriving at any finding as to whether the *de facto* complainant, *Raja* pledged the Bike belonging to *Ayyasamy* or not.

15. It is very clear from the materials, which are collected by the first respondent himself that the *de facto* complainant, *Raja*, pledged the Bike for the Advocate fees. The second part of the Final Report is that in the said complaint, the petitioner/second accused was roped in to appear as an



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Advocate for the complainant, *Thangamani*. It is the case of all the parties that on the day of occurrence i.e., on 30.07.2020, the second accused called the *de facto* complainant, Raja, to his office for discussion. The call is recorded by the petitioner/second accused and the same was also taken as material under further investigation and the same is also part of the Final Report.

16. It is the contention of the petitioner that on going through the entire call, it can be seen that because an allegation is made against the Advocate, the second petitioner had only made the call to him to find out the details, in which, both of them were cordially discussing the issue and that the second accused had never invited the *de facto* complainant to his office. The first respondent/Investigating Officer also collected the said material, and he did not find that the said recording was false or doctored.

17. In this regard, he also examined two other persons namely, one *Shanmugam* and *Murugan*, who made statements to the Investigating Officer that they were present in the petitioner/Advocate's office at the time when the *de facto* complainant came. According to them, the petitioner/second accused was having his lunch when the *de facto* complainant, *Raja*, came to



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his office and the said *Raja* told the petitioner that since both of them are Advocates, let not the second accused, *Tamil Rajendran* interfere in the matter. *Tamil Rajendran* refused the request and said that since a client was coming for his help, he would help him in accordance with the law. Upon this, the *de facto* complainant threatened him that he would face dire consequences and left the scene. The first respondent did not give any opinion about the said witnesses. Therefore, there are statements of the *de facto* complainant and the other two eyewitnesses to the incident as if the petitioner herein abused the *de facto* complainant by using his caste name inside and outside the office. Two other witnesses say that it is only the *de facto* complainant who threatened the second accused and that the second accused did not abuse the *de facto* complainant. Thus, it can be seen that the materials, which are filed along with the Final Report, are inherently contradictory to each other.

18. It is in this context, that the words, which are repeatedly alleged by the *de facto* complainant and parroted by the other alleged eyewitnesses, are to be considered by this Court. It is the exact allegation that after coming out of the office, in public, the petitioner herein narrated the following statement:-



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" ... என்னை எதிர்த்து வழக்கு நடத்துகிற அளவுக்கு
தேரியம் வந்துடுச்சா தொலச்சுடுவேன்"

Thus, after the caste name, the particular statement about whether he was emboldened to conduct the case opposing the second accused, is mentioned.

19. In this regard, considering the circumstances there is no question of the *de facto* complainant conducting a case against the second accused. It is the second accused, who is said to have been assisting one *Thangamani* in lodging the complaint regarding pledging of the Bike belonging to *Ayyasamy*, in turn of a higher and additional fee of Rs.30,000/-. Therefore, the words which are allegedly spoken, are inherently improbable and not relevant to the context of the allegations made by the *de facto* complainant. Besides, even after a specific allegation of malafide, the *de facto* complainant also did not choose to appear before this Court and refute the said allegation.

20. On a careful and wholesome consideration of the materials, it can be seen that the second accused, was giving professional advice to the complainant, *Thangamani*, the *de facto* complainant gave the complaint. On



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the face of it, it seems to be inherently improbable and the Final Report and the materials which are collected by the first respondent are inherently contradictory to each other concerning every fact which is mentioned in the Final Report. As such, even taking the materials which are collected, at face value, I am of the view that no offence can be said to be made out. On the contrary, it can only be reasonably deduced that the entire exercise is an abuse of process of law and in view thereof, I am inclined to interfere in the exercise of the powers under Section 482 of the *Code of Criminal Procedure*.

21. In view thereof, this Criminal Original Petition stands allowed. The Final Report filed in S.C.No.49 of 2021 on the file of the Principal District Court/Special Court for SC and ST (Prevention of Atrocities) Act Cases, Karur in connection with Crime No.448 of 2020 on the file of the respondent Police Station shall stand quashed. Consequently, connected miscellaneous petitions are closed.

29.11.2024

Neutral Citation: yes
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1. The Principal District Court/Special Court
for SC and ST (Prevention of Atrocities) Act Cases,
Karur.
2. The Deputy Superintendent of Police,
Karur Town Sub-Division,
Karur District.
3. The Inspector of Police,
Thanthonimalai Police Station,
Karur District.
4. The Public Prosecutor,
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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