

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2015

CORAM:

THE HONOURABLE MR. JUSTICE P.DEVADASS

CrI.O.P.No.5918 of 2015

A.Rajasekaran

.. Petitioner/
Defacto Complainant

vs.

1.The Director of Vigilance and Anti-Corruption,
Directorate of Vigilance and Anti-Corruption,
NCB 21 to 28,
P.S. Kumarasamy Raja Salai,
Raja Annamalaipuram,
Madras-600 028.

2.The Additional Director General of Police,
Crime Branch CID,
Madras-600 008.

3.The Superintendent of Police,
Anti-Corruption Bureau,
III Floor, Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam,
Madras-600 006.

.. Respondents

Petition filed under Section 482 Cr.P.C., to direct the second respondent to register the complaint of the petitioner dated 11.2.2015 and investigate the same in accordance with law.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.S.Shunmughavelayutham,
Public Prosecutor.

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O R D E R

A.Rajasekaran, the petitioner herein, seeks a direction under Section 482 Cr.P.C., to respondents 1 to 3 viz., (1) The Director of Vigilance and Anti-Corruption, Chennai (2) The Additional Director General of Police, Crime Branch CID, Chennai and (3) The Superintendent of Police, Anti-Corruption Bureau, CBI, Chennai to register a case based on his complaint dated 11.2.2015 which was sent to the Principal Secretary, Home Department, Government of Tamil Nadu, Fort St. George, Chennai.

<https://hcservices.ecourts.gov.in/hcservices/> 2. Rajasekaran's wife is Valliammai @ Senbhagavalli. Their son is Saravana Kumar. He married one Vidhya. Now there is strained relationship between Saravana Kumar and Vidhya. Now no love last

between both side families. They got embroiled in many Court cases, including Family Court case. Bad blood is brewing between both the families.

3. Based on the complaint of Vidhya, All Women Police, Harur registered a case in Crime No.29 of 2012. Inspector took up his investigation. After investigation, he filed the Final Report under Section 173 (2) Cr.P.C., before the learned Judicial Magistrate, Harur.

4. Upon perusing the said Report and the documents attached thereto, the learned Magistrate took cognizance thereon in C.C.No.33 of 2013 for offences under Sections 498-A, 406, 294(b), 506(i) IPC and issued summons under Section 204 Cr.P.C., to A-1 to A-3, namely, Saravana Kumar, Rajasekaran and Valliammai @ Senbhagavalli.

5. The accused have approached this Court for quashing the said criminal proceedings. Pending the proceedings, stay of all further proceedings in the said calendar case has been granted by this Court.

6. In this scenario, the complaint dated 11.2.2015 and this Criminal Original Petition has been filed by Rajasekaran.

7. Mr.R.Jayaprakash, learned counsel for the petitioner would submit that Inspector Thangaraj is the villain of the peace. He is out to finish Rajasekaran's family by embroiling them in a vexatious criminal prosecution.

8. To drive home his point of view, Mr.Jayaprakash submitted that Inspector Thangaraj stated to have examined Kotteeswari, the District Social Welfare Officer and recorded her statement under Section 161 Cr.P.C. Kotteeswari seems to have enquired Vidhya on 18.10.2012 in connection with her fight with her husband Saravana Kumar and send her report on 22.10.2012. In recording the statement of Kotteeswari, Inspector Thangaraj stated that Vidhya appeared before Kotteeswari on 18.10.2012 and Kotteeswari has submitted a Report on 22.10.2012. Surprisingly the Inspector states that he has recorded the said statement of Kotteeswari on 30.8.2012. He also filed the Final Report on 1.9.2012.

9. According to the learned counsel for the petitioner, 18.10.2012 and 22.10.2012 comes after 30.8.2012 and it cannot be before 30.8.2012. Thus the Inspector committed an offence to injure the name and fame of Rajasekaran's family.

10. On the other hand, the learned Public Prosecutor would submit that the said Rajasekaran has become an eternal headache for certain high police officials served in Dharmapuri District. Instead of fighting with Vidhya's family, he is fighting with Police Officers by filing writ petitions after writ petitions and original petitions after original petitions.

11. The learned Public Prosecutor would further submit that while recording the statement of Kotteeswari, mistake has crept in, now Rajasekaran wants to have a mileage over that. He wants to make out a mountain out of a mole.

12. The learned Public Prosecutor would further submit that already a criminal case has been filed as against the petitioner and his family members and it is pending before a Court of competent jurisdiction, for allegations under Section 211 IPC, a particular procedure has been prescribed in Section 195 Cr.P.C., as per that only the named authority can file a complaint in writing. It is a must. It is a condition precedent.

13. In reply, Mr. Jayaprakash would submit that the earlier proceedings mentioned by the learned Public Prosecutor though arose as between Rajasekaran, Saravana Kumar and the Police Department, they are not directly in issue with the issues raised in this petition.

14. I have anxiously considered the rival submissions, perused the averments in the complaint dated 11.2.2015 and the averments in the original petition and other materials on record.

15. One thing is clear that the prelude/nucleus for all the headache and all the problems is the matrimonial fight between Saravana Kumar and Vidhya and it took several turns and twists. The better halves have turned bitter halves. Even now the war between the spouses is going on. Naturally, Rajasekaran will be disturbed by these unpleasant events in his family.

16. As regards the dates mentioned in the statement of Kotteeswari recorded by Inspector Thangaraj under Section 161 Cr.P.C., the learned Public Prosecutor pointed out that it is a mistake. That is a different matter. It is a matter to be appreciated at the appropriate stage by the learned Judicial Magistrate, Harur.

17. So far as the present petition is concerned, the grievance of the petitioner is that Inspector Thangaraj wants to injure Rajasekaran's family by recording incorrect information and by filing it in the Court of learned Judicial Magistrate, Harur. Now the ball is before the said Court in C.C.No.23 of 2012.

18. As regards the allegations with reference to an offence under Section 211 IPC, to prosecute a person a mandatory procedure has been prescribed in Section 195 Cr.P.C. The complainant in writing should be by a specified authority.

19. Under Section 482 Cr.P.C., this Court's inherent jurisdiction 'to do justice' and 'to undo injustice' has been preserved in the New Code. It is independent of, not controlled by any other provisions in the Code. Even then in exercising its said inherent jurisdiction, this Court cannot overstep the express provisions contained in the Code of Criminal Procedure or in any other Statute.

20. As there is a particular procedure to be undergone under Section 195 Cr.P.C., to prosecute a person for an offence under Section 211 of IPC under Section 482 Cr.P.C., this Court cannot overstep it.

21. In the circumstances, the directions sought for cannot be issued.

22. Thus this petition is dismissed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Svn

To

- 1.The Chief Judicial Magistrate, Dharmapuri.
- 2.The Judicial Magistrate, Harur.
- 3.The Public Prosecutor, High Court, Madras.
- 4.The Director of Vigilance and Anti-Corruption,
Directorate of Vigilance and Anti-Corruption,
NCB 21 to 28,
P.S. Kumarasamy Raja Salai,
Raja Annamalaipuram,
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- 5.The Additional Director General of Police,
Crime Branch CID,
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- 6.The Superintendent of Police,
Anti-Corruption Bureau, C.B.I.,
III Floor, Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam,
Madras-600 006.

- 1 cc to Mr.R.Jayaprakash, Advocate, Sr. 27811
2 ccs to Public Prosecutor, Sr. 28137, 28139

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