

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2015

CORAM:

The HON'BLE MR.JUSTICE R.S.RAMANATHAN

CRL.O.P.No.8292 of 2015

1.Chellammal

2.Thangan @ Maheswaran

.. Petitioners

Vs.

1.State rep.by
Superintendent of Police,
Erode.

2.The Inspector of Police,
Bungalowpudur Police Station,
Gobichettipalayam,
Erode District.

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
Praying to direct the respondent police to register FIR on the basis
of the complaint dated 31.12.2014 .

For Petitioners : M/s.P.R.Balasubramanian

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

The petitioners were charge sheeted in Special Sessions Case No.49 of 2013 on the file of Principal District and Sessions Court, Erode on the basis of the complaint given by one Raman for the offence punishable under Section 294(b) I.P.C. r/w Section 3(i)(x) of SC/ST (POA) Act, 1989.

2. The above said case ended in acquittal by Judgment dated 05.09.2013 . Now the petitioners have given a complaint stating that action should be taken against P.W.1 Raman, P.W.3 Subramanian and Palanisamy/ P.W.2, Police Constable and also P.W.9 Deputy Superintendent of Police for forcibly implicating the petitioners in the above Special Sessions Case No.49 of 2013.

3. It is submitted by the learned counsel for the petitioner that at the instigation of P.W.3, P.W.2 , P.W.9, P.W.1 gave complaint and the learned Principal Judge, while acquitting the petitioners held that there was delay in filing the complaint and dispute between P.W.3 and accused was admitted and all the eye witnesses examined by the Investigating Officer happened to be the relatives of P.W.3 and therefore, there was possibility of implicating the accused by P.W.3, with the help of P.W.1 and the same cannot be ruled down and acquitted the petitioners and therefore action has to be taken.

4. I am unable to accept the contention of the learned counsel for the petitioner. In Paragraph 23 of the Judgment, the learned Sessions Judge, observed that there was delay in filing the complaint and there was dispute between P.W.3 and the accused and P.W.2 was living at the mercy of P.W.3 and other eye witnesses were relatives of P.W.3 and therefore, the possibility of implicating the accused cannot ruled out and acquitted the petitioners by giving benefit of the doubt.

5. According to me, the observation made by the learned Principal District and Sessions Judge, Erode was not the reason for acquittal of the petitioner and the learned Sessions Judge has given benefit of doubt to the petitioners and acquitted them. The learned District and Sessions Judge has not given any finding that a false case was foisted against the petitioners by P.W.1 with the help of P.W.2 and P.W.9. Admittedly, P.W.9 was the Investigating Officer who examined the witnesses under SC/ST Act and P.W.2 Palanisamy is the Police Constable and P.W.1 is the defacto complainant and even assuming that P.W.1 has given a false complaint though there is no such finding, that cannot be a ground for initiating action against P.W.2 police constable and P.W.9/ Investigating Officer.

6. Hence I do not find any merits in this petition. Accordingly, this petition is dismissed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

kkd

To

1. The Superintendent of Police,

Erode

2.The Inspector of Police,
Bungalowpudur Police Station,
Gobichettipalayam,
Erode District.

3. The Public Prosecutor,
High Court of Madras,
Chennai.

1 cc to Mr.P.R.Balasubramanian, Advocate, Sr. 18889

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