

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.15346 of 2009
and
M.P.No.1 and 2 of 2009

1. N.Murugesan
2. Boovendrakumar
3.M.Natarajan

...Petitioners

vs.

Narayanasamy

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the private complaint in C.C.No.360 of 2008, on the file of the Judicial Magistrate Court, Bhavani, and to quash the same insofar as the petitioners are concerned.

For Petitioners: Mr.S.Lakshmanasamy

For Respondent : No appearance

O R D E R

This Petition has been filed by the petitioners, who are arrayed as accused Nos.1, 4 and 5 in C.C.No.360 of 2008, on the file of the Judicial Magistrate Court, Bhavani, to quash the said case insofar as they are concerned.

2. It is submitted by the learned counsel appearing for petitioners that the learned Magistrate, without applying his mind, took cognizance of the case and issued process against the petitioners and other accused, and therefore, the proceeding in C.C.No.360 of 2008, is liable to be quashed. It is further submitted by the learned counsel that, even according to the private complaint given by the respondent, the same was filed on 26.11.2008 and the Calender Case number was mentioned in the complaint copy, and therefore, on the date of filing of the complaint, the Court has taken cognizance of the case without applying its mind, and therefore, process has to be set aside and the complaint has to be dismissed.

3. I am unable to accept the contentions of the learned counsel appearing for petitioners. For the purpose of effective disposal of this case, Lower Courts records were called for, and

it is seen from the records that on 10.10.2008, CrI.M.P.No.6527 of 2008 was taken up for enquiry and that was the complaint given by the respondent against the petitioners, and, on the basis of the sworn statement given by the respondent/complainant, the learned Magistrate took cognizance of the case, based on the document and sworn statement given by the respondent/complainant for offences under Sections 465 and 468 Cr.P.C., ordered notice to the accused, thereafter, the case was numbered as C.C.No.360 of 2008.

4. No doubt, in the complaint filed by the respondent, Calender Case number was mentioned, as if, on the date of filing of the complaint, the Court had taken cognizance of the case, but, that was not according to the records, and it is seen from the records that on 05.11.2008, sworn statement was recorded from the respondent, and order was passed on 26.11.2008, by the learned Magistrate for having taken cognizance of the case for offence under Sections 465 and 468 Cr.P.C., and process was issued. Hence, I do not find any merit in this Criminal Original Petition.

4. In the result, the Criminal Original Petition is dismissed. Consequently, connected M.P. are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sd

To

1. The Judicial Magistrate
Bhavani

Copy to

The Section Officer
Criminal Section,
High Court, Madras (For sending the records to
Lower Court immediately)

CrI.O.P.No.15346 of 2009

PPA (CO)

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