

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.06.2015

DELIVERED ON : 01.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.29094 of 2010
and M.P.Nos.1 of 2010 & 1 of 2011

1.S.Sabari Raj
2.S.Subbiah
3.S.Selvarani

... Petitioners/Accused 1to3

Vs

The State by Assistant Inspector of Police
B-4, High Court Police Station
Chennai 600 104.

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to quash the charge sheet filed in C.C.No.7317 of 2007 in Cr.No.29 of 2005 on the file of the VII Metropolitan Magistrate, George Town, Chennai by calling for records relating to the above said case.

[Prayer amended as per order of the Court]

For Petitioners

Mr.R.Kannan

For Respondent

Mr.C.Emalias,

Additional Public Prosecutor

O R D E R

This petition has been filed to call for the records in C.C.No.7317 of 2007 on the file of the VII Metropolitan Magistrate, George Town, Chennai and quash the same.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the Sate.

3. The defacto complainant is T.Shanmughamuthu, a practising Advocate. According to the defacto complainant, on 28.10.2005 around 2.00 in the noon, a person whom he could identify, accosted him near his law chambers and intimidated him saying that, he should withdraw the complaint that was given by him against the accused before the Commissioner of Police, Madurai, failing which he would have to face dire consequences. It is also alleged by the defacto complainant that, he was manhandled by that person. Police registered an FIR in Cr.No.29 of 2005 under Sections 341, 448, 506 (ii), IPC r/w 34 IPC and after investigation filed a Final Report

against the accused persons before the VII Metropolitan Magistrate, George Town, which was taken on file as Crime.No.29 of 2005, challenging which the accused are before this Court.

4. The learned counsel for the accused contended that, the first accused got married to one Porselvi, who is said to be related to the defacto complainant. Their marriage broke down and the bride's party had approached the defacto complainant for help. According to the petitioners, the complaint that was given on behalf of Porselvi before the Commissioner of Police, Madurai was closed as early as 14.09.2005 and therefore, there is no reason for the petitioners to set up anybody to intimidate the defacto complainant on 28.10.2005 as alleged by him in the present case. Be that as it may, on a complete reading of the FIR and the statements recorded by the police, it is seen that no witness has spoken to the presence of any of the petitioners at the time of the alleged incident. Even according to the defacto complainant, a person whom he could identify had intimidated him and manhandled him on 28.10.2005. The police have not done any investigation to find out who had actually perpetrated the offence. Thus in the absence of the principle offender, these petitioners cannot be prosecuted on the ipse dixit of the defacto complainant that, the alleged assailant told him that he was sent by the accused herein. Thus this prosecution is patently an abuse of process of law and requires to be quashed. Accordingly, the prosecution in C.C.No.7317 of 2007 on the file of the VII Metropolitan Magistrate, George Town, Chennai are quashed and this petition is allowed. Consequently, M.P.Nos.1 of 2010 and 1 of 2011 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

1. The VII Metropolitan Magistrate, George Town, Chennai

2. The Chief Metropolitan Magistrate,
Egmore, Chennai (for Information)

3. The State by Assistant Inspector of Police
B-4, High Court Police Station, Chennai 600 104.

4. The Public Prosecutor, High Court, Madras.

+ 2 ccs to M/s. R. Kannan, Advocate SR.32368

Cr1.O.P.No.29094 of 2010

SAI (CO)

Eu 14.07.15