

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.27743 of 2014

and Crl.M.P.No.1931 of 2016 and M.P.No.1 of 2014

Selvan @ K.Ramachandran .. Petitioner

Vs.

State rep. by
1.The Deputy Superintendent of Police
Erode Town police station
Erode District.
Crime No.300 of 2014

2.G.Raja .. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to F.I.R. in Crime No.300 of 2014 on the file of the first respondent police and to quash the same.

For Petitioner :Mr.N.Manokaran

For R1 :Mr.C.Emalias
Addl. Public Prosecutor

ORDER

The petition is filed for quashing the F.I.R. in Crime No.300 of 2014 on the file of the first respondent police and quash the same.

2.Learned counsel for the petitioner submits that the petitioner has been arrayed as A3 in Crime No.300 of 2014 for the offences punishable under Sections 294(b), 341, 323 and 506(i) IPC read with 3(1)(r) and (s) of SC/ST (Prevention of Atrocities) Ordinance Act, 2014, stating that the petitioner's name does not find place in the F.I.R. He further submits that there is no overt act attributed against the petitioner in the F.I.R. The F.I.R. has been registered against one Damodaran, Suresh and Selvakumar. The name of the petitioner is Selvan @ Ramachandran and he belongs to the community of the defacto complainant. Hence, the provisions of Section 3(1)(r) and (s)

of SC/ST (Prevention of Atrocities) Ordinance Act, 2014, are not attracted. Further, the ingredients of other offences under the I.P.C. are not attracted. Learned counsel has also drawn attention of this Court through Section 3(1) of SC/ST (Prevention of Atrocities) Act, stating that the prosecution has to establish that the words were spoken by a person, who was not a member of a Schedule Caste or a Scheduled Tribe. He has filed transfer certificate and community certificate to prove that the petitioner belongs to Arunthathiyar community. To substantiate his claim, he relied upon the decision reported in 2008 (12) SCC 531 (Gorige Pentaiah v. State of Andhra Pradesh and others) and quash the proceedings.

3. Learned Additional Public Prosecutor submits that the petitioner is the defacto complainant in another case in Crime No.301 of 2014 for the offences punishable under Sections 294(b), 323, 324 and 506(ii) IPC and it is the case and counter. He further submits that the petitioner has also sustained injuries and hence, there is an overt act against the petitioner. Hence, he prayed for dismissal of this petition.

4. Considered the rival submissions made on both sides and perused the typed set of papers.

5. A perusal of F.I.R.No.301 of 2014 specifically reveals that the petitioner belongs to Arunthathiyar community and the same has been prima facie proved by the petitioner by way of filing his transfer certificate and community certificate issued by the Tahsildar, Tiruchengode.

6. It is appropriate to incorporate Section 3(1) of SC/ST (Prevention of Atrocities) Act, wherein it was specifically mentioned that "whoever, not being a member of a Scheduled Caste or a Scheduled Tribe". But admittedly, the petitioner belongs to Arunthathiyar caste, which comes under the Scheduled caste.

7. As per the decision reported in 2008 (12) SCC 531 (Gorige Pentaiah v. State of Andhra Pradesh and others), wherein it was specifically held that once accused and the defacto complainant belong to the same community, the provisions of law under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act, will not be made out.

8. In view of the above decision and on considering the fact that the petitioner and the defacto complainant belong to the same community, the petitioner is discharged from the provisions of law under Section 3(1)(r) and (s) of SC/ST (Prevention of Atrocities) Act.

9. The second limb of argument advanced by the learned counsel for the petitioner is that the name of the petitioner

does not find place in the F.I.R. and no overt act has been made against him. Therefore, the ingredients of Sections 294 (b), 341, 323 and 506(i) IPC are not made out.

10. On the basis of the complaint given by the petitioner, a case in Crime No.301 of 2014 has been registered against the defacto complainant for the offences punishable under Sections 294(b), 323, 324 and 506(ii) IPC. The alleged occurrence said to have taken place on 17.05.2014, at about 19.00 hours and the said complaint was given by the petitioner on 18.05.2014, at about 14.15 hours. It is to be noted that based upon the complaint lodged by the defacto complainant, a case in Crime No.300 of 2014 has been registered against the petitioner and others, in which, it was stated that the alleged occurrence said to have taken place on 17.05.2014, at about 8.30 p.m. and the complaint was lodged on 18.05.2014, at about 9.30 a.m. It clearly shows that it is not the case and counter. Furthermore, name of the petitioner does not find place in Crime No.300 of 2014. So it is not a mistaken identity, because both the petitioner and the defacto complainant are Advocate Clerks. If really the petitioner involved in the commission of offence, the petitioner's name has been mentioned in Crime No.300 of 2014. So it prima facie proves that the ingredients of Sections 294(b), 323, 341 and 506(i) IPC are not made out against the petitioner. Hence, the petitioner is discharged from the offences under Sections 294 (b), 341, 323 and 506(i) IPC. Accordingly, F.I.R. in Crime No.300 of 2014 on the file of the first respondent police is quashed against the petitioner viz., Selvam @ K.Ramachandran alone, who has been arrayed as A3.

11. In the result, the Criminal Original Petition stands allowed and the proceedings in Crime No.300 of 2014 has been quashed against the petitioner alone. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Superintendent of Police
Erode Town police station Erode District.

2.The Public Prosecutor
High Court, Chennai.

+1 cc to Mr.N.Manokaran, Advocate, sr.15959

Crl.O.P.No.27743 of 2014

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vd go. kra 24.03.2016