

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2016

CORAM

THE HONOURABLE Ms.JUSTICE R.MALA

CrI.OP.No.30305 of 2015

and

MP.No.1 of 2015

1.Mani @ Manikandan

2.Susairaj

3.Sathish @ Ravi

4.Anthoni @ Anthonisamy

5.Fransuva @ David

6.Jawa @ Parimelagan

7.Mohan @ Mohanakumar

... Petitioners/A1-A7

Vs.

1.State rep. by
Inspector of Police,
Odiyan Salai Police Station, Puducherry.

... 1st respondent/Complainant

2.Shakir Basha.

... 2nd respondent/Defacto complainant

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records and to quash the FIR in Crime No.199 of
2015 pending on the file of the respondent police.

For Petitioners : Mr.R.John Sathyan

For R1 : Mr.Balamurugane,
Additional Public Prosecutor
[Puducherry]

For R2 : Mr.A.Amarnath

ORDER

The above petition has been filed by the petitioners who are
arrayed as A1 to A7 in Cr.No.199/2015 to quash the FIR.

2. The case of the prosecution in a nutshell is that one
Mohameed Hameed, the husband of the defacto complainant's sister
was doing Real Estate Business. One Mani @ Manikandan [A1] was a
life convict and was jailed. The other accused, on 06.11.2015

at about 9.00 a.m., met the victim [complainant's sister's husband] and informed him that A1 wants to meet him at the Court complex at Puducherry. Accordingly, Hameed went and met A1 in the Court, who told him to arrange a sum of Rs.10 lakhs to engage an Advocate to pursue his case before the Madras High Court and also threatened him with dire consequences, if he has not arranged for the said amount. The victim also sought for a week's time. On 17.11.2015 at about 4.30 p.m., A1's friends, viz., petitioners 2 to 6 and Manivannan, Manikandan @ Vaikkal Mani and Babu came to the house of the defacto complainant and locked the house from outside. The accused persons threatened the defacto complainant to arrange for Rs.10 lakhs otherwise they will do away with the lives of their family members. On seeing the Police Patrol vehicle, the accused ran away from the scene of occurrence leaving their two motor bikes. Immediately thereafter, the defacto complainant came to Odian Salai Police Station and lodged a complaint, based on which, a case came to be registered in Cr.No.199/2015 for the alleged offences u/s.143, 342, 387 IPC r/w 149 IPC and 109 IPC.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor [Puducherry].

4. Learned counsel for the petitioners would contend that no such complaint was given by the defacto complainant and that the said complaint was obtained from the complainant on coercion and compulsion. It is his further submission that when the petition for bail of the accused came up for hearing before the Court below, the defacto complainant appeared before the Magistrate and submitted that he has not given any such complaint as stated in Cr.No.199/2015 and that the same was obtained from him by the police personnel under coercion and force. Upon such submission only, the petitioners were enlarged on bail by the Court below. Learned counsel submits that when the complainant himself has withdrawn the complaint, nothing survives and hence, prayed for quashment of the FIR in Cr.No.199/2015.

5. Per contra, the learned Additional Public Prosecutor [Puducherry] would vehemently oppose for quashment of the First Information Report stating that no undue coercion or influence has been caused on the defacto complainant to lodge such a complaint and the complainant himself had lodged the complaint on his own volition. It is his further submission that the petitioners 1 and 2 are still detained in the prison in connection with some other case. Petitioners 3 to 5 are absconding and petitioners 6 and 7 are enlarged on bail. Learned Additional Public Prosecutor would also submit that A1 in this case is also involved in Cr.No.362/2011 and the trial is in progress and that the defacto complainant in the said case, viz., Cr.No.362/2011 has turned hostile. He would submit that

the accused persons have tampered the witnesses and hampered the case and further, the motor bikes used by the accused persons, were also seized from the scene of occurrence and the phone call details of the accused with the defacto complainant at the said time of occurrence also proves the involvement of the accused in the crime. Lastly, he submitted that the investigation in the case in Cr.No.199/2015 is in the preliminary stage and that the accused are habitual and history sheeted rowdies and if the FIR is quashed, the accused persons would escape from the clutches of law.

6. This Court considered the rival submissions made on either side and also perused the entire materials placed on record including the Counter affidavit filed by the State.

7. The defacto complainant, viz., Shakir Basha, appeared before this Court today and stated that on 17.11.2015, when he was playing Carom in the Carom Association, the police personnel came and caught some of his friends and took them along with the defacto complainant to the Police Station and threatened that a case would be booked against them if they would not lodge a complaint against a person who was caught from the said Association. In order to safeguard himself, the complainant wrote a complaint as dictated by the police and affixed his signature. It is his further submission that there are no personal vengeance between himself and the accused and they are the residents of the same locality. It is his further submission that he has also stated so before the learned Magistrate concerned, upon which, the accused were granted bail. The defacto complainant also filed an affidavit dated 23.02.2016 to that effect and the same was also attested by a Notary Public.

8. On perusal of the typed set of papers, it is evidenced that based on the complaint given by Shakir Basha/the 2nd respondent herein, a case came to be registered in Cr.No.199/2015 and the law was set in motion. But, it is evident from the submission of the defacto complainant, who appeared in person before this Court today and from his affidavit dated 23.02.2016, that the said complaint was lodged at the instigation of the police, as he was threatened by the police that he would face legal battle if he does not write a complaint as dictated by them. Fearing for life, the defacto complainant had done so. It is also seen that the accused were enlarged on bail by the Court below only upon the appearance of the defacto complainant and upon his submission to the said effect. Moreover, the submission of the learned Additional Public Prosecutor that the accused are facing very many criminal cases, that will not be a reason to rope them in a vexatious and a concocted case. Though the accused persons are history-sheeted elements, as per the submission of the learned Additional Public Prosecutor, the alleged occurrence in the

instant case is itself doubtful and the defacto complainant himself has stated that no such occurrence has taken place.

9. For the aforesaid reasons, this Court is of the prima facie view that a false case has been foisted against the petitioners and that nothing survives in the case in view of the deposition of the defacto complainant before the Court below as well as before this Court that no such occurrence had taken place. It is a fit case wherein the FIR could be quashed.

10. Accordingly, the criminal original petition is allowed and the FIR in Cr.No.199/2015 registered against the petitioners is hereby quashed. Consequently, connected miscellaneous petition is also closed.

AP

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,
Odiyan Salai Police Station,
Puducherry.

2.The Public Prosecutor, High Court, Madras.

+ 2 ccs to Mr.R.John Sathyan, Advocate Sr 11660

KR/3/3/16

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