

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRL.O.P.No.15750 of 2009

and

M.P.No.1 of 2009

1. A.Jayarajan
2. Selvakumar

... Petitioners

- Vs -

J.P.Sundaram

... Respondent

Prayer : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records relating to the criminal proceedings in C.C.No.39 of 2009 on the file of the Judicial Magistrate No.II, Namakkal, and quash the same.

For Petitioners : Mr.N.Manokaran

For Respondent : Mr.V.Kamal

O R D E R

The petitioners herein have filed this petition under Section 482 of Cr.P.C., to quash the criminal proceedings of the calendar case in C.C.No.39 of 2010 which is pending against them on the file of the learned Judicial Magistrate-II, Namakkal. The petitioners 1 and 2 herein are the accused 1 and 2 in the above said case whereas the respondent herein is the complainant.

2. It is alleged by the respondent in the complaint that on 03.03.2009 the petitioners herein and three others had met the respondent in the department meeting held at a marriage hall at Pudhuchatiram, and assaulted him and also made criminal intimidation with dire consequence. In respect of this incident, as it is seen from the complaint, a complaint was lodged on 03.03.2009 with the Superintendent of Police, Namakkal. It is also revealed that the respondent being the complainant had also presented a complaint before the District Collector on 02.03.2009. It is also revealed that the respondent had reported the matter to Chemmedu Police Station, Kolli hills on 06.03.2009.

3. The learned Judicial Magistrate No-II, Namakkal based on the private complaint filed by the respondent herein had taken cognizance of the offences under Section 294(b), 341, 323, 500 and 506(ii) I.P.C.

4. When the matter is taken up for hearing Mr.N.Manokaran, learned counsel for the petitioners has adverted to that none of the ingredients, specified under Sections 294(b), 341, 323, 500 and 506(ii) IPC., were made out in this case and the learned Judicial Magistrate No-II, Namakkal, without considering the nature of the complaint had simply proceeded to take cognizance of the offences under Section 294(b), 323, 341, 500 and 506(ii) of I.P.C.

5. Mr.N.Manokaran, while advancing his argument has drawn the attention of this Court to paragraph No.8 of the complaint filed by the 2nd respondent, wherein he has stated that the occurrence was taken place on 03.03.2009; on which date the petitioners along with three others had assaulted and also abused him with filthy language and they had also torn his shirt in to pieces and thereafter, he was criminally intimidated with dire consequences.

6. Mr.N.Manokaran, learned counsel has demonstrated with the complaint and argued that as it was seen from paragraph No.9 of the complaint, the occurrence was taken place on 03.03.2009 and a complaint to that effect was lodged on 18.02.2009 with ante date and subsequently a copy of the complaint was also sent to the Superintendent of Police, Namakkal on 02.03.2009. He has also indicated that on 06.03.2009 also a complaint was lodged before Kolli Hills, Chemmedu Police Station.

7. Though the learned counsel for the respondent has contended that the copies of the complaints had been enclosed along with the typed set of papers, this Court finds that no satisfactory proof is available to show that the respondent had lodged a complaint in respect of the occurrence taken place on 03.03.2009. Further, it is surprise to note that the occurrence is tsaid to have been aken place on 03.03.2009. But, the respondent has stated that he had lodged a complaint on 18.02.2009 before the same police station and the copy of the same was forwarded to the Superintendent of Police, Namakkal on 02.03.2009.

8. In this connection, a question is arisen as to whether, there is any possibility to lodge a complaint, with ante date for the offence took place on 03.03.2009 and apart from this, it is alleged that the petitioners had assaulted the respondent along with three henchmen. He has also stated that he was beaten up indiscriminately, however, no reference is available as to

whether the respondent was taken to hospital and given treatment. The complaint, before the learned Judicial Magistrate itself seems to have been filed vexatiously to wreck vengeance on the part of the petitioners.

9. Mr.N.Manokaran has also submitted that previously there was money transaction between the petitioners and the respondent. In this connection, the 2nd petitioner had lodged a private complaint in STC No.4 of 2009 before the Judicial Magistrate-II, Namakkal against one Subramaniam and the same is still pending. The 2nd petitioner had also filed a complaint under Section 138 of Negotiable Instrument Act. According to Mr.N.Manokaran, that complaint in STC No.957 of 2009 was settled out of Court, and now the case in STC No.4 of 2009 is pending against Subramaniam and not against this respondent.

10. This Court has struck a balance between the submission made on behalf of the parties to the petition. Having regard to the related facts and circumstances, this Court is of considered view that no adequate grounds are available to proceed against the petitioners. Therefore, the complaint dated 28.05.2009 is deserved to be quashed.

11. Accordingly, this petition is allowed and the criminal proceedings initiated against the petitioners in C.C.No.39 of 2009 which is now pending on the file of the learned Judicial Magistrate-II is quashed. Consequently, connected miscellaneous petition is closed.

ssn

Sd/-
Assistant Registrar (CS VI)
/TRUE COPY/
Sub-Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Namakkal.

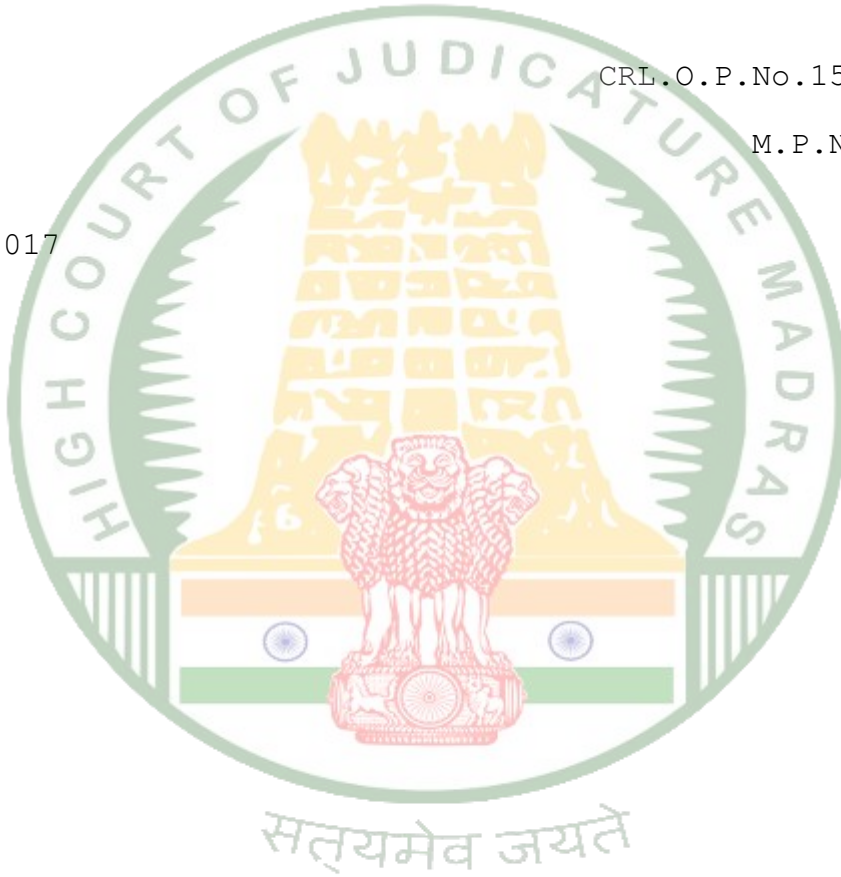
2. The Public Prosecutor,
High Court,
Madras.

+1 CC to Mr.N.Manokaran Advocate SR.NO.72841

+1 CC to Mr.V.Kamal Advocate SR.NO.72458

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SVI [CO]
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