

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P.No.15394 of 2011
and
M.P.No.1 of 2011**

V.Dhanasekaran

... Petitioner

vs.

1.State rep. by the Sub-Inspector of Police,
Town Police Station,
Salem District.
(Crime No.773 of 2006)

2.M.Selvaraj
Salem RDO-cum-Election Officer,
Salem-II,
Salem.

... Respondents

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records and quash all the proceedings in C.C No.234 of 2006 on the file of the Judicial Magistrate No.I, Salem, Salem District.

For Petitioner : Mrs.Sumithra Vasudevan

For Respondents : Mr.B.Ramesh Babu (for R1)
Government Advocate (Crl.Side)

No Appearance (for R2)

JUDGMENT

The sole accused has come up with the present petition to quash the C.C.No.234 of 2006 on the file of the learned Judicial Magistrate No.I, Salem, for the offence under Sections 294(b) and 506(ii) of I.P.C.

2.The case of the petitioner is that he is a practicing advocate and he has been falsely implicated in the case on the basis of bald and vague allegation is that the petitioner along with the other accused abused the De-facto Complainant in a filthy language and further he by wordy intimidation threatening the complainant has involved in the offences attracting 294(b) and 506(ii) of I.P.C. Such a bald allegation could not attract the ingredients of offence charged with. Neither in the F.I.R. nor in the statement recorded under Section 161 of Cr.P.C from the witness, incriminating material is available to implicate the petitioner for the offences charged.

3.Though the alleged occurrence is said to have taken place on 26.04.2016, the complaint came to be lodged on 29.04.2006, with the delay of 4 days. The said complaint was made on political influence in respect of an election dispute. Therefore, the charge leveled against the petitioner itself is an abuse of process of law and the present criminal

original petition invoking the inherent powers of this Court under Section 482 of Cr.P.C. is being filed to quash the proceedings in C.C.No.234 of 2006.

4.I heard Mrs.Sumithra Vasudevan, learned counsel appearing for the petitioner and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side), appearing for the 1st respondent and no representation on behalf of the 2nd respondent and perused all the materials available on record.

5.The learned counsel for the petitioner would submit that neither in the F.I.R. nor in the statement recorded under Section 161 of Cr.P.C. from the witness, incriminating material available to implicate the petitioner for the offences charged. The complaint itself is vague and bald. Though the alleged occurrence is said to have taken place on 26.04.2016, the complaint came to be lodged on 29.04.2006, with the delay of 4 days without any explanation.

6.Per contra, the learned Government Advocate (Criminal Side) strongly opposed the petition and stated that even in the statement recorded under Section 161 of the Cr.P.C., de-facto complainant clearly stated that the petitioner along with other accused said to have abused him and as such no ground made out, for quashing the proceedings.

7.The petitioner herein is found to be arrayed as accused No.1 in the charge sheet laid in C.C.No.234 of 2006. On close perusal of the F.I.R and the statements recorded under Section 161 of Cr.P.C. discloses that the allegations are only vague and bald to the effect that the petitioner along with other accused said to have abused the De-facto Complainant. Absolutely there is no material to show what words the petitioner said to have abused the De-facto Complainant.

8.In this context it would be relevant to look into the decision of this Court in the matter of ***V.Dhasiah and another v. The State*** reported in ***1994 (2) Crime 67*** holding as follows:

" 4..... the allegations are only to the effect that accused 1 and 2 had talked about the witness No.1 'Tamilword'. It is not stated what were the words uttered. The word 'Tamilword' is a vague as anything. I am clear that the mere allegation 'Tamilword' cannot be equated to "obscene" words. So, regarding the offence under section 294 (b) IPC, the F.I.R is liable to be quashed."

9.At this juncture, the attention of this Court was drawn to the order of this Court made in Crl.O.P.No.8725 of 2008, wherein for co-accused (A-6) in the above said charge sheet in C.C.No.234 of 2006, this Court

having reliance upon the decision in ***V.Dhasiah and another v. The State***, has quashed the charge sheet in so far as the accused No.6.

10.Whereas, admittedly in the case on hand there is delay of 4 days, in preferring complaint from the alleged date of occurrence. Further there is no explanation as to why there was delay of 4 days lodging complaint. On perusal of the F.I.R. as well as the statement recorded under Section 161 of C.R.P.C from the witness, this Court is not able to see any specific overt act against the petitioner, whereas, the charges remain vague and bald.

11.For the foregoing reasons and facts involved in the case, this Court has no hesitation to quash the charge sheet in C.C.No.234 of 2006, pending on the file of the learned Judicial Magistrate No.I, Salem. Accordingly, the criminal original petition is allowed and the proceedings in C.C.No.234 of 2006, pending on the file of the Judicial Magistrate No.I, Salem, is quashed. Consequently, connected miscellaneous petition is closed.

10.04.2017

Note:Issue order copy on 08.08.2017

Internet : Yes

Index : Yes

vs

To

The Judicial Magistrate Court-I,

Salem.

M.V.MURALIDARAN,J.

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