

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.06.2017

CORAM:
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Cr1.O.P.No.30124 of 2010
and
M.P.Nos.1 and 2 of 2010

1.S.Padmanabhan
2.Thilagar @ Ashok

...Petitioners

Vs.

1.State by Sub Inspector of Police,
Madipakkam Police Station,
Madipakkam,
Chennai - 600 091.

2.P.A.Jeyachandran

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.821 of 2008 on the file of the Judicial Magistrate, Alandur.

For Petitioners : M/s.Vedavalli Kumar

For Respondents : Mr.P.Govindarajan (for R1)
Additional Public Prosecutor

No Appearance (for R2)

ORDER

This criminal original petition is preferred by the petitioners/accused against the proceedings pending in C.C.No.821 of 2008 on the file of the learned Judicial Magistrate, Alandur and quash the same.

2.Brief case of the petitioners/accused

The case is that one Rajasekar who is the publisher of Akni Parvai, playing active role in a political party and published certain news item about the petitioners/accused. The further allegation is that after 3 months, the 1st petitioner had threatened Rajasekar with dire consequences. Both Rajasekar and defacto complainant are said to have gone to the petitioner's office, when both of them entered them, the 1st petitioner along with the 2nd petitioner attacked the defacto complainant and Rajasekar and his car driver with Uruttukattai and fled away

from the scene of occurrence. The case was filed in Crime No.911 of 2007 for the alleged offences under section 341 of IPC, 324 of IPC and 506(i) and after enquiry, the offence under section 506(i) IPC against the petitioners/accused had been deleted by the Investigating Officer. Subsequently final report was filed against the petitioner/accused and the learned Judicial Magistrate take cognizance of the offence in C.C.No.821 of 2008. Aggrieved over the same this quash petition is filed.

3.The respondent police also filed their counter alleging that in the course of the investigation, the then Sub Inspector of police enquired six witnesses and recorded their statements. Subsequently, she laid a charge sheet against the 2nd petitioner alone under section 341 and 324 of IPC on 17.12.2007 before the learned Judicial Magistrate, Alandur who took the same on file in C.C.No.307 of 2008. Then, new C.C.Nos.8 of 2008, 821 of 2008, 6 of 2009 and 95 of 2010 were assigned during the trial conducted by special regular Magistrate.

4.The Assistant Commissioner of Police, Madipakkam Range took up further investigation on 12.1.2009 in Cr.No.911 of 2007 examined 9 witnesses, completed the investigation and laid a Amended charge sheet well within the stipulated time limit against the 1st and 2nd petitioners/accused under section 341 and 324 of IPC before the learned Judicial Magistrate, Alandur on 23.1.2009.

5.The Special Magistrate assigned C.C.No.6 of 2009 on 27.11.2009 and subsequently the case was transferred to the learned Judicial Magistrate, Alandur who took the same on file in C.C.No.95 of 2010. The case was posted for next hearing on 24.1.2011, hence at this stage there is no necessity to quash or stay the proceedings in C.C.No.821 of 2008 in Cr.No.911 of 2007 on the file of the respondent police.

6.The learned counsel for the petitioners/accused submits that the allegation made in the FIR, even it is taken as a whole, would not constitute an offence and the FIR registered is politically motivated by way of retaliation and it is to be noted that a complaint in FIR No.910 of 2007 had been filed by the Assistant Commissioner of Police against the defacto complaint for indulging in road roko in Madipakkam Coot road and thereby causing nuisance to the Public while he was on patrol.

7.The learned counsel for the petitioners/accused submits that the FIR and the final report against them are false, frivolous and liable to be quashed for false story.

8.The learned Additional Public Prosecutor appearing for the 1st respondent opposed the contentions of the petitioners and sought for dismissal of the petition.

9.I heard M/s.Vedavalli Kumar, learned counsel for the petitioners and Mr.P.Govindarajan, learned Additional Public

Prosecutor for the 1st respondent and perused the entire materials available on record. No representation on behalf of the 2nd respondent.

10.The allegations made in the F.I.R. even it is taken as whole, would not constitute an offence but the Police on the instigation of the politically motivated persons had filed the final report.

11.In the case on hand, the allegations made in the FIR and in the final report do not constitute an offence under section 341,324 of IPC. The case of the petitioner/accused is that the final report filed by the respondent police is politically motivated. This contention cannot be rejected and the same was found in the averments contained in 161 statements. Therefore the proceedings in C.C.No.821 of 2008 are nothing but sheer abuse of process of law.

12.In the result, this criminal original petition is allowed and the proceedings pending in C.C.No.821 of 2008 against the petitioners/accused on the file of the learned Judicial Magistrate, Alandur is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

1.The Judicial Magistrate,
Alandur.

2.The Sub Inspector of Police,
Madipakkam Police Station,
Madipakkam, Chennai - 91.

3.The Public Prosecutor,
High Court, Madras.

+2ccs to Mrs.Vedavallikumar, Advocate, S.R.No.43920

Crl.O.P.No.30124 of 2010
and
M.P.Nos.1 and 2 of 2010

AR(CO)

rrs 15/03/2019