

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRL.O.P.No.26552 of 2009

1.Devaru
2.Vakil Babu
3.Nilky Sadak
4.Joseph @ Vijay ... Petitioners

Vs.

The State represented by
Inspector of Police,
Arakkonam Town Police Station,
Arakkonam,
Vellore District. Respondent

Prayer : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in P.R.C.No.20 of 2009 on the file of the Judicial Magistrate, Arakkonam and quash the same.

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.V.M.R.Rajentren
Additional Public Prosecutor

ORDER

This petition is filed by the petitioners 1 to 4 under Section 482 of Cr.P.C., to quash the criminal proceedings of the case in P.R.C.No.20 of 2009, which is pending on the file of the learned Judicial Magistrate, Arakkonam.

2. Heard Mr.S.Sankarasubbu, learned counsel appearing for the petitioners and Mr.V.M.R.Rajentren, learned Additional Public Prosecutor appearing for the respondent/police.

3. The petitioners herein are ranked as A1, A5, A6 and A7 in the case in P.R.C.No.20 of 2009 which is pending on the file of the learned Judicial Magistrate, Arakkonam.

4. It is manifested from the records that on 12.08.2009, the Inspector of Police attached to Arakkonam Town Police Station had registered a case in Crime No.526 of 2009 as against the petitioner herein and other accused (totally 18 nos.), based on the complaint lodged by one Dr.M.S.Prabhakar alleging that the petitioners and other accused had committed the offences punishable under Sections 147, 148, 294(b), 323, 506(ii) of I.P.C., and under Section 3 of The Tamil Nadu Property (Prevention of Damage and Loss) Act. After the completion of the investigation, the Investigating Officer attached to Arakkonam Town Police Station had laid a final report against the petitioners and other four accused on the file of the learned Judicial Magistrate, Arakkonam and the same was taken on file by the

said Magistrate in PRC No.20 of 2009, after taking cognizance of offences under Sections 147, 148, 294(b), 353, 506(ii) of I.P.C., and Section 3 of The Tamil Nadu Property (Prevention of Damage and Loss) Act, altered to one under Sections 147, 148, 149, 294(b), 353, 506(ii) of I.P.C., and Section 3 of The Tamil Nadu Property (Prevention of Damage and Loss) Act.

5. Now, the case in P.R.C.No.20 of 2009 has been pending on the file of the learned Judicial Magistrate, Arakkonam which is sought to be quashed in respect of the petitioners herein.

6. On perusal of the relevant materials placed before this Court, this Court understands that on 12.08.2009, the respondent/police had registered two cases in Crime Nos.524 and 525 of 2009 as against seven persons viz., Milky @ Sadaq(A1), Devaru(A2), Esgoba(A3), Joseph(A4), James(A5), Theemothi (A6), Logesh @ Nanba(A7) alleging that they had committed the offences punishable under Sections 148, 294(b), 323, 324, 506(ii), and 307 of I.P.C.

7. Another case in Crime No.525 of 2009 was registered based on the complaint lodged by the other parties, who are

the witnesses in the above said case. It is therefore, clear that the case in Crime Nos.524 and 525 of 2009 are case in counter. Both parties had sustained injuries and therefore, they were taken to Government Hospital, Arakkonam for treatment.

8. It appears that the injured persons in Crime No.524 of 2009 viz., Muralimohan, Balu, Krishnamoorthi were taking treatment. While so, the petitioners herein and four others came to the Arakonam Government Hospital in an Auto and two wheeler, armed with deadly weapons and in the course of the same transaction they had prevented the doctors and nurses from giving treatment to the injured persons and abused them with filthy language and caused damages to the public property which was valued at Rs.6,175/-. Hence, based on the complaint lodged by Dr.M.S.Prabhakar, another case in Crime No.526 of 2009 was registered against the petitioners and four others alleging that they had committed the offences punishable under Sections 147, 148, 149, 294(b), 353, 506 (ii) of I.P.C., and Section 3 of The Tamil Nadu Property (Prevention of Damage and Loss) Act.

9. Mr.Sankarasubbu, learned counsel appearing for the petitioners has submitted that the other two sessions cases in S.C.Nos.85 and 285 of 2010 relating to the case in Crime Nos.525 of 2009 and 524 of 2009 respectively were ended in acquittal as the parties to the respective cases had entered into a compromise at the intervention of their well wishers.

10. It is obvious to note here that both the cases were ended in acquittal. As seen from the respective judgments in the respective cases, the witnesses had not supported the case of the prosecution as they had turned hostile.

11. Mr.Sankarasubbu, insofar as the present case on hand is concerned, has argued that none of the witnesses including the complainant Dr.M.S.Prabhakar had spoken to about the specific overt act of the petitioners as well as the other accused persons.

12. He would further submit that the prosecution had totally listed 17 witnesses and on perusal of their respective statements under Section 161(3) Cr.P.C., which were recorded by the Investigating Officer, it could be

understood that none of the witness had spoken to about the individual overt act of the petitioners as well as other accused persons.

13. This Court has perused and found that even the complainant Dr.M.S.Prabhakar has stated in his 161(3) statement that seven members had entered the hospital at 11 p.m., on 11.08.2009, when the treatment was given to the injured persons Murali, Balu, Krishnamoorthi and they had prevented the doctors and nurses from giving treatment to the injured persons and they had also abused the doctors and nurses with filthy language and subsequently caused damages to the public property. Following the statement given by P.W.1 who is the complainant in this case and the other witnesses have also spoken to in general saying that seven persons had entered the hospital, prevented the doctors and nurses from giving treatment to the injured persons and caused damages to the Government properties.

14. It has to be noted that the other two cases in S.C.Nos.85 and 285 of 2010 were ended in acquittal as the witnesses had not supported the case of the prosecution.

15. Similarly, this Court finds that from the statements of the listed witnesses as well as of the complainant, no adequate grounds are available to proceed against the petitioners.

16. It is also to be noted that still the case in Crime No.526 of 2009 is pending in preliminary enquiry stage, in this connection, a report was called for from the learned Judicial Magistrate, Arakkonam, through the Registry. In pursuant to the direction of this Court, the learned Judicial Magistrate had also submitted a report in Dis.No.359 of 2017 dated 16.02.2017, stating that since there was an interim stay, some of the accused were not appearing regularly and the case was still pending in PRC stage.

17. Having regard to the relevant facts and circumstances and on perusal of the statement of the witnesses including the complaint lodged by the complainant, this Court finds that no adequate grounds are available to proceed against the petitioners under Sections 147, 148, 149, 294(b), 353 and 506(ii) of I.P.C., and Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act.

18. Even if the case in PRC No.20 of 2009 is allowed to be committed to Court of sessions, the chance of conviction would be bleak. In order to avoid wasting of precious time of the Court and to prevent the petitioners from facing the hurdle of trial, this Court is of view that the criminal case in PRC No.20 of 2009 may be quashed as against the petitioners.

19. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings in PRC.No.20 of 2009, on the file of the Judicial Magistrate, Arakkonam is quashed, in so far as the petitioners are concerned.

22.02.2017

Index: Yes / No
Internet : Yes / No
ssn

सत्यमेव जयते

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To

1. The Judicial Magistrate,
Arakkonam

2. The Inspector of Police,
Arakkonam Town Police Station,
Arakkonam,
Vellore District.

3. The Public Prosecutor,
High Court, Madras.



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T.MATHIVANAN, J. ,

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