

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRL.O.P.No.28482 of 2009

and

M.P.No.1 of 2009

Rev. Father, J.Jayasingh

... Petitioner

- Vs -

1. State by  
Inspector of Police,  
Sathuvacheri Police Station,  
Vellore District.  
(Cr.No.454 of 2009)

2. Amavasai Gownder ... Respondents  
2<sup>nd</sup> respondent impleaded as per  
order of Court dated  
8/2/10 in M.P.No.1 of 2010)

Prayer : Criminal Original Petition is filed under Section 482  
Cr.P.C. to call for the entire records in connection with the  
criminal case in C.C.No.179 of 2009 pending on the file of the  
learned Judicial Magistrate, No.V, Vellore and quash the same.

For Petitioner : Mr.P.Chandrasekaran

For 1<sup>st</sup> Respondent : Mr.V.M.R.Rajentren  
(Addl. Public Prosecutor)

For 2nd Respondent : Mr.V.V. Chandrasekaran

O R D E R

Invoking the provisions of Section 482 of Cr.P.C., this  
petition is filed by the petitioner to quash the criminal  
proceedings relating to the criminal case in C.C.No.179 of 2009  
pending against him on the file of the learned Judicial  
Magistrate, Vellore.

2. Heard Mr.P.Chandrasekaran, learned counsel for the petitioner and Mr.V.M.R.Rajentren, learned Additional Public Prosecutor for the respondent.

3. Despite service of notice on the 2<sup>nd</sup> respondent, who is the de-facto complainant in the case in crime No.454 of 2009, has not chosen to appear. Hence, he is called absent.

4. It is manifested from the records that based on the complaint lodged by the 2<sup>nd</sup> respondent, Ammasi @ Amavasai Gounder, a case in Crime No.454 of 2009 under Section 294 (b) and 506(i) of I.P.C., was registered by the 1<sup>st</sup> respondent/Police as against the petitioner herein. As it appears from the final report, it is alleged that on 15.09.2009 at about 5 p.m., when the 2<sup>nd</sup> respondent, Amavasai and his son one Shanmugham were chatting with each other in front of the shop belonging to one Mahendran at Sathuvachari, the petitioner came there and abused them with filthy language and asked them as to when they were going to vacate the site and surrender the vacant possession ? Besides this, he had also threatened them with dire consequences. Therefore, the 1<sup>st</sup> respondent/Police, after the completion of investigation had laid a final report under Section 173(2) of Cr.P.C., before the learned Judicial Magistrate, No.V, Vellore. The learned Judicial Magistrate had taken cognizance of the offences under Sections 294(b) and 506 (i) of I.P.C. and also taken the final report on his file in C.C.No.179 of 2009 and now, the case is pending on the file of the above said Magistrate.

5. The only contention raised on behalf of the petitioner is that the alleged allegation was said to have been taken place on 15.09.2009 at about 5 p.m. But, in fact, on the particular day, the petitioner Rev.J.Jayasingh was not at all available in the place of occurrence as he had been to Delhi to attend a function, which took place at the residence of a Hon'ble Judge of Apex Court at New Delhi.

6. The learned counsel for the petitioner has also demonstrated with the letter addressed by the said Hon'ble Judge dated 17.09.2009 to the petitioner wherein the Hon'ble Judge had expressed his gratitude to the petitioner for having made his presence at his residence at New Delhi and spent the whole day with his family members on 15.09.2009 and for having prayed for Mr.Enatoli's wedding arrangements.

7. In this connection, the learned counsel for the petitioner has argued that no such occurrence was taken place on 15.09.2009 as the petitioner was not at all available in the place of occurrence. He would further submit that the case in Crime No.454 of 2009 was completely foisted against him, on account of a Civil litigation pending against the 2<sup>nd</sup>

respondent/de-facto complainant and four others in O.S.No.32 of 2009 on the file of the learned Additional District Court (FTC), Vellore. It appears that the petitioner had filed the above said suit in O.S.No.32 of 2009 and along with the suit, he had also filed an application in I.A.No.36 of 2009 and obtained an order of interim injunction.

8. With reference to this civil litigation, the learned counsel for the petitioner has maintained that in order to wreck vengeance, the 2<sup>nd</sup> respondent/de-facto complainant had wantonly lodged a complaint against the petitioner before the 1<sup>st</sup> respondent/Police as if the petitioner had committed a crime as alleged by the 1<sup>st</sup> respondent.

9. Mr.V.M.R.Rajentren, learned Additional Public Prosecutor, has strictly resisted the submission made by the learned counsel for the petitioner and submitted that since the case is pending trial on the file of the learned Judicial Magistrate, No.V, Vellore, let the trial be allowed to continue and the case in C.C.No.179 of 2009 which is sought to be quashed might be disposed of on merits.

10. This Court has considered the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor and has also perused the grounds of the petition. Having taken into consideration of the related facts and circumstances, this Court finds that prima facie it is established that the petitioner was not at all present in the place of occurrence on 15.07.2009, and this Court is also of view that even if the case is allowed to proceed further and the witnesses are allowed to be examined the chance of conviction is bleak and therefore, this Court finds it is a fit case to be quashed.

11. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings relating to the criminal case in C.C.No.179 of 2009 pending against him on the file of the learned Judicial Magistrate, Vellore is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

ssn

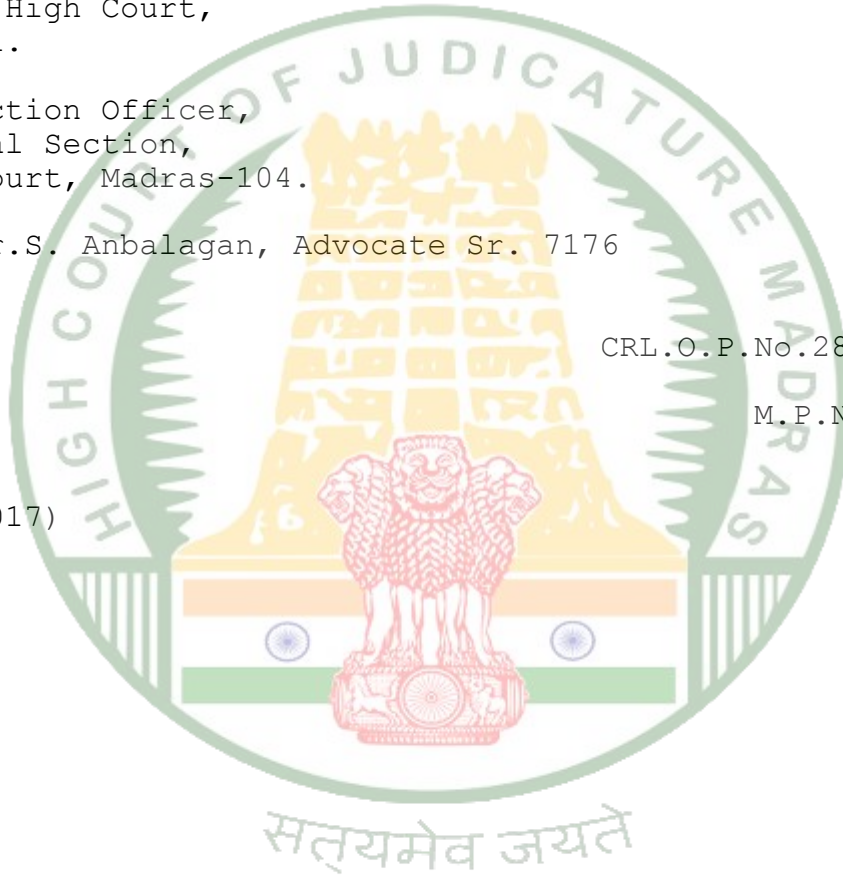
To

1. The Judicial Magistrate,  
No.V, Vellore.
2. Inspector of Police,  
Sathuvacheri Police Station,  
Vellore District.
3. The Public Prosecutor,  
Madras High Court,  
Chennai.
4. The Section Officer,  
Criminal Section,  
High Court, Madras-104.

+1cc to Mr.S. Anbalagan, Advocate Sr. 7176

CRL.O.P.No.28482 of 2009  
and  
M.P.No.1 of 2009

KGK(CO)  
VR(25/4/2017)



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