

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CrI.O.P No.29458 of 2010
and
M.P.No.1 of 2010

1.Muniappan
2.V.Thangavel @ Kulai Thangavel
3.T.Kadiravan ... Petitioners

vs.

Rajavel ... Respondent

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records from the file of the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District in P.R.No.11 of 2010 and quash the same otherwise great prejudice would be caused to the petitioners.

For Petitioners : Mr.P.Mohamed Ansare

For Respondent : Mr.C.D.Johnson

JUDGMENT

The Petitioner has filed this Criminal original Petition to call for the records from the file of the Learned District Munsiff cum judicial Magistrate, Paramathi, Nammakkal District in P.R.No.11/2010 and quash the same, otherwise great prejudice would be caused to the petitioners.

2. The case of the petitioners is that the 1st petitioner is a practicing advocate. Originally on 15.02.2008 at about 11 a.m., when the 1st petitioner was in house he was attacked by one Natesan and 7 others including the respondent herein. Further he was also kidnapped and confined in a room and was put to

physical torture. Fortunately the first petitioner managed to escape from that place and was admitted in to the hospital with multiple injuries. Whereupon immediately the first petitioner lodged a complaint for the offence committed by the respondent herein and his companions and a First Information Report under sections 143, 342, 323, 363, 506(i) IPC came to be registered against the accused including the respondent herein in Crime No.131 of 2008 in Tiruchengodu Town Police Station. A due investigation was conducted by the Tiruchengodu police and a charge sheet was been filed before the Learned District Munsif cum Judicial Magistrate, Paramathi and the same was taken on file in C.C.No.54 of 2010.

3. It is the further case of the petitioners that though originally the first petitioner was attacked by the respondent and his men, however, a false complaint came to be lodged before the very same police on the same day i.e., on 15.02.2008 as if the respondent herein was attacked by the petitioners herein. Thereupon a F.I.R in Crime No.132 of 2008 dated 15.02.2008 was registered under sections 323, 506(i) r/w section 3(1)(x), S.C and S.T Act. After due investigation the Tiruchengodu Town police having found the complaint lodged by the respondent herein false and there was no such occurrence of attack on the respondent herein has taken place, the corresponding F.I.R. in Crime No.132 of 2008 as referred as mistake of fact before the learned District Munsif-cum-Judicial Magistrate, Paramathi by his order dated 20.07.2008 was pleased to pass an order of closure of the F.I.R registered against the petitioners herein in Crime No.132 of 2008. Being so, now after about 2 years the respondent herein in the year 2010 has preferred a private complaint in P.R.No.11 of 2010, before the learned District Munsif-cum-Judicial Magistrate, Paramathi, so as to counter the ongoing trial in C.C.No.54 of 2010 against the respondent herein. The said act of the respondent herein sheer abuse of process of law, besides with an ulterior motive to harass the petitioners herein. Moreover the said private complaint is also lodged as a threatening tool. Therefore in the light of said facts and abuse of process of law by the respondent herein, all the proceedings of the private complaint in P.R.No.11 of 2010 is liable to be quashed.

4. I heard Mr.P.Mohamed Ansare, learned counsel appearing for the petitioners and Mr.C.D.Johnson, learned counsel appearing for the respondent and perused all the records.

5. On perusal of the records it is found that there are two F.I.R.s came to be registered in respect of the alleged

offences committed by the petitioners herein and the respondent. The F.I.R. in Crime No.131 of 2008 is registered for the alleged offence of kidnapping and custodial torture committed on the first petitioner by the respondent herein and some others, whereas the latter F.I.R. in Crime No.132 of 2008 is registered as against the petitioners herein. After investigation the police has filed charge sheet in respect of Crime No.131 of 2008 and the trial is ongoing, further on investigation the later complaint in F.I.R. in Crime No.132 of 2008 was been referred as mistake of fact by the police.

6. At this juncture it is found from the investigation report filed in respect of Crime No.132 of 2008, the police have found that there was no such alleged occurrence at all taken place, but the same is lodged as a counter blast to its previous one. The report discloses that the counter complaint is designed and lodged at the instigation of the other accused in Crime No.131 of 2008 who are not belonging to Schedule Caste Community, but has been purposefully lodged by the respondent herein since he alone belonged to Scheduled Caste Community, so as to attract the penal provision under SC/ST Act. Furthermore it is seen that both the petitioners and respondent belongs to one and the same political party and the quarrel between them has arisen out of an Election dispute. It is indispensable to note here that the report reveals that the respondent and his men despite having attacked the 1st petitioner herein, but as lodged the complaint as if he was been attacked and abused by the name of his community. At this juncture on taking into account of the time of the alleged occurrence, the records disclose that there is a huge discrepancy in respect of the alleged time of occurrence as per the respondent herein and his witnesses put forth by him viz his co-accused in the F.I.R. in Crime No.132 of 2008. As per the version of the respondent herein the alleged occurrence has taken place at about 10.00 a.m., where as it is 3.00 p.m., according to his witness.

7. Therefore in the light of the above factual findings this Court finds that the F.I.R. registered against the petitioners herein is false and a classic examples of a counter blast the case registered against the respondent herein. It is needless to say that the false complaint on hand being purposefully designed and lodged by a person belonging to a Scheduled Caste, so as to attract offences under SC/ST Act is nothing but an abuse of process of law.

8. Further one another patent abuse of process of law is that the respondent herein after a lapse of two years from the

closure of the F.I.R in the year 2008 by the Learned Judicial Magistrate has chosen to prefer a private complaint under section 200 Cr.P.C in the year 2010, so as to keep the issue pending in one way or other and thereby to get away the pending trial against him in C.C.No.54 of 2008.

9. For the foregoing reasons, I am of the considered opinion that the private complaint registered against the petitioners herein is liable to be quashed.

10. In the result, this criminal original petition is allowed and the private complaint filed against the petitioners in P.R.No.11 of 2010 on the file of the learned District Munsiff-cum-Judicial Magistrate, Paramathi, Nammakkal District, is quashed. There is no order as to cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

The District Munsif-cum-Judicial Magistrate,
Paramathi, Namakkal District.

+1cc to Mr.P.Mohamed Ansare, Advocate, S.R.No.20263

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and
M.P.No.1 of 2010

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