

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.10.2017

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

Crl.O.P.No.18782 of 2012
and
M.P.Nos.1 and 2 of 2012

1.Subashini
2.Vijayalakshmi
3.Ragupathi
4.Johnson
5.Ramesh

..Petitioners

Vs.

M.Devi

..Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in respect of the complaint filed by the respondent herein in C.C.No.201 of 2012 pending on the file of Chief Judicial Magistrate, Coimbatore and quash the same as far as the petitioner's concerned.

For Petitioners : Mr.R.Nalliyappan

For Respondent : Mr.M.Christopher

ORDER

This criminal original petition is preferred by the petitioners/Accused A1 to A5 against the proceedings pending in C.C.No.201 of 2012 before the learned Chief Judicial Magistrate, Coimbatore and quash the same.

2.Brief case of the petitioners/accused A1 to A5

The facts of the case is that the petitioners/accused A1 to A5 herein are police officials discharging their service at Ramanathapuram Police Station at Coimbatore District. While so, when the petitioner/accused A1 herein was on traffic regulating duty at Suriapalayam Road on 10.12.2011 at about 16.30 hrs, the respondent and her husband namely Marimuthu caused disturbance to the public and traffic by using abusive and filthy language quarreled each other and later the said Marimuthu attacked the respondent herein and the respondent has attacked her husband. Being, to control the law and order, regulate the traffic, petitioner/accused A1 has advised the respondent and her husband not to make any disturbance to the public by using filthy language in the common place. At that juncture, the respondent and her husband abused the petitioner/accused A1 with filthy

language and pushed her on the roadside and thereby she was restrained from doing Government Duty and later threatened the petitioner/accused A1. Hence, the petitioner/accused A1 herein has made a complaint before the B7, L & O, Ramanathapuram Police Station and the same was registered in Crime No.1400 of 2011 under section 75 (i) (c) TNCP Act 353,354,323 and 506(i) of IPC on 10.12.2011.

3.The above case is pending under investigation, the respondent has filed the private complaint before the learned Chief Judicial magistrate Coimbatore in C.C.No.201 of 2012 alleging that on 10.11.2011 at about 6.30 hrs nearby Vinayaka temple at Puliyankulam, the respondent and his husband while arguing themselves about where they have to go, the 1st petitioner/accused A1 alleged to have come there and threatened and beaten them. Later, the petitioner/accused A1 called the other petitioners/accused and taken them to police station and there also they alleged to have attacked them and foisted a criminal case against the respondent in Cr.No.1400 of 2011. As against the above said complaint the petitioners herein filed the quash petition to quash the private complaint pending in C.C.No.201 of 2012.

4.The learned counsel for the petitioners/accused submits that even as per the complaint the occurrence alleged to happen on 10.11.2011, but after lapse of 3.1/2 months the respondent has foisted the above complaint and the same is not sustainable under law.

5.The learned counsel for the petitioners/accused submits that the learned Judicial Magistrate ought not to have taken cognizance of the complaint against the petitioners herein, since the 1st Petitioner herein while discharging her official duty, the respondent and her husband has threatened, abused and restrained her from discharging duty. Under such circumstances, on the complaint of the 1st petitioner/accused, a criminal case was registered on 10.12.2011 in Crime No.1400 of 2011 under section 75(i) (c) TNCP Act and 353,354,323 and 506(i) of IPC.

6.The learned counsel for the petitioners/accused submits that the learned Judicial Magistrate after prima facie satisfaction on the allegation made out against the petitioners/accused based on the materials submitted by the respondent, proceed to take cognizance, but in the above said complaint the respondent herein not shown the FIR which was registered against the respondent which was conveniently omitted to show the same while taking cognizance on the above said complaint and the same was not considered by the learned Judicial Magistrate even though the respondent has stated in the complaint.

7.The learned counsel for the petitioners/accused submits that the discharge summary which was filed along with the above complaint also not speaks about the alleged occurrence; however it has stated that the respondent has taken treatment for rolling herself which cannot be treated as a material to consider for taking cognizance over the above said complaint.

8.The learned counsel for the respondent opposed the prayer of the petitioners/accused and sought for dismissal of the petition.

9.I heard Mr.R.Nalliyappan, learned counsel for the petitioners and Mr.M.Christopher, learned counsel for the respondent and perused the entire materials available on record.

10.In the case on hand, the petitioners/accused preferred complaint against the respondent/complainant and her husband and FIR was registered in Cr.No.1400 of 2012 on the file of the L & O, Ramanathapuram Police Station.

11.On the other hand, the respondent/complainant also filed the private complaint against the petitioners/accused before the learned Chief Judicial Magistrate, Coimbatore and the same was taken on file in C.C.No.201 of 2012.

12.On reading the both complaints, it's appear to me that both complaints have to be quashed. Nothing can be attributed against the cognizance taken by the learned Chief Judicial Magistrate, Coimbatore. Further the case instituted by the 1st petitioner/accused against the respondent/complainant and her husband also devoid of merits and cannot be sustained.

13.In the result:

a) This criminal original petition is allowed;

b) The complaint in C.C.No.201 of 2012, pending on the file of the learned Chief Judicial Magistrate, Coimbatore, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

The Chief Judicial Magistrate,
Coimbatore.

+1cc to Mr.S.Dharmaraj, Advocate, S.R.No.76462
+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.76083

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AR(CO)

rrs 15/03/2019



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