



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.19166 of 2016

and

Crl.MP(MD) Nos.12396,12408 and 9631 of 2016

WEB COPY

1.P.Senthilkumar
2.P.Bojan
3.P.Rathinakumar
4.P.Jeyakumar
5.B.Vignesh
6.R.Rengan

... Petitioners/Accused Nos.1 to 6
-vs-

B.Fathima Beevi

... Respondent/ Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.90/2014 on the file of the learned Judicial Magistrate, No.V, Tiruchirappalli, and quash the proceedings as against the petitioners.

For Petitioner : Mr.A.Thiruvadikumar
For Respondents : Mr.K.Sivabalan

O R D E R

This petition has been filed to quash the case in C.C.No.90/2014 on the file of the learned Judicial Magistrate, No.V, Tiruchirappalli.

2. On the complaint lodged by Fathima Beevi, the respondent police registered a case in Crime No.363/2013 on 10.06.2013 under Sections 147, 148, 448, 294(b), 323 and 506(ii) IPC against Senthilkumar and others. After completing the investigation, the police have filed a closure report before the Judicial Magistrate, No.V, Trichy, wherein, they have stated that the entire allegations are false and has been made with an ulterior motive, in order to wreck vengeance against the accused. Notice was ordered on the Fathima Beevi(de-facto complainant) and she entered appearance and filed an objection memo. In the objection memo, she has stated that she is intending to file a fresh private complaint against the accused. After saying so, Fathima Beevi has filed the present private complaint, which has been taken on file as C.C.No.90/2014 by the Judicial Magistrate No.V, Trichy and summons have been issued to the accused. Challenging which, the accused are before this Court.



3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4. The learned counsel for the petitioners contended that the Judicial Magistrate, No.V, has not passed any orders on the closure report and the protest application that was filed by Fathima Beevi and during the pendency of the same, a fresh private complaint has been entertained.

5. Per contra, the learned counsel for the de-facto complainant/respondent contended that even in the protest petition, objection memo filed by Fathima Beevi, she has stated that she is going to file a private complaint against the accused and only on that ground, the learned Magistrate has not passed any orders on the closure report.

6. Be that as it may, this Court is of the view that when no orders have been passed by the Magistrate on the closure report, even after Fathima Beevi filed a protest application, the 2nd private complaint on the same allegations would be an abuse of process of law, as it may lead to contradictory orders, inasmuch as the Magistrate can either accept the closure report, reject the closure report or order further investigation, as the case may be.

7. Under such circumstances, the proceedings in C.C.No.90/2014 before the Judicial Magistrate NO.V, Trichy, is hereby quashed with liberty to Fathima Beevi/de-facto complainant to file all her objections before the Judicial Magistrate, NO.V, Trichy, in the closure report ie., pending in Crime No.363/2013. Thereafter, it is open to the parties to work out their remedy in the manner known to law.

8. With the above observations and direction, this petition is disposed of. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To:

The Judicial Magistrate, No.V, Tiruchirappalli
Tiruchirappalli District.

+1 CC to M/s.A.THIRUVADIKUMAR, Advocate, SR No. 12935

+1 CC to M/s.K.SIVABALAN, Advocate, SR No. 13315

RR

PSM/SKN-RSK/24.03.2017/2P/4C