

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

CrI.O.P.No.13195 OF 2011
and M.P.No.1 of 2011

Subhastri

... Petitioner

Vs

Ravichandran

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to quash the private complaint preferred by the respondent dated 28.08.2006 in PRC No.12 of 2007 on the file of Judicial Magistrate No.II, Nagapattinam.

For Petitioner : Mr.S. Sounthar

For respondent : Mr.Sankarasubbu for
Mr.S. Rajinikanth

ORDER

The Petitioner/Accused No.4 in PRC No.12 of 2007 on the file of Judicial Magistrate No.II, Nagapattinam has filed this petition to quash the private complaint proceedings.

2.The respondent had preferred a private complaint as against this petitioner and four others in PRC No.12 of 2007 for the offences punishable under Sections 294-B, 448, 506(2) IPC and Sections 3(1)(x) and 3(1)(xv) of Prevention of Atrocities against Scheduled Caste and Scheduled Tribes Act.

3. According to the complainant, on 19.06.2005 at about 7.30 p.m, when he was away from his house, the accused came to his house, quarrelled with his wife and abused with abrasive language .

4. Except this accused, the other accused have filed a quash petition before this Court in CrI.O.P.No.3838 of 2008 and

this Court by Order dated 19.01.2011 allowed the petition with the following observations:-

" 7. In respect of the petitioners 2 to 4 (the other accused) I find every justification in the submission made by the learned counsel for the petitioners. A perusal of the private complaint would go to show that there is an omnibus allegation in paragraph 3 of the complaint, stating that these accused also scolded the wife of the complainant in abrasive language, thereby humiliated her. Except this omnibus allegation there is no other specific overt act stated against these accused. Apart from that a perusal of the complaint dated 21.06.2005 given to the police immediately after the occurrence, would show that not even the presence of these accused at the time of occurrence has been mentioned. The entire complaint dated 21.06.2005 would go to show that it was only the first accused, who indulged in the commission of crime. As I have stated there is nothing stated about the petitioners 2 to 4 in the complaint dated 21.06.2005. The learned counsel for the respondent would submit that as against the second petitioner - Ragukumar, there are certain allegations made in the complaint dated 21.06.2005. A perusal of the same would go to show that it does not speak about the presence of the Ragukumar on the spot. It says that there was some telephonic call made some time before by the second accused to Alameluammal, who was the owner of the house. That will not be sufficient to sustain the complaint. Thus I am of the view that in the absence of any allegation made against the petitioners 2 to 4 in the earliest complaint given on 21.06.2005, the private complaint made on 28.08.2006 implicating these petitioners also cannot be sustained. In such view of the matter, I am inclined to quash the proceedings against the petitioners 2 to 4 alone.

5. The Petitioner/Accused No.4 in the above complaint is also similarly placed with that of the other accused, whose proceedings have been quashed by the order of this Court in CrI.O.P.No.3848 of 2008.

6. In view of the same, this Criminal Original Petition is allowed and the proceedings in PRC No.12 of 2007 on the file of Judicial Magistrate No.II, Nagapattinam is quashed. However, this Court has declined to quash the complaint as against accused No.1, who is having specific overt act. Though his quash application was dismissed as early as on 19.11.2011, the complaint could not have been proceeded further in view of pendency of this petition before this Court.

7. The occurrence is of the year 2005. Therefore, I am inclined to issue a direction to the learned Judicial Magistrate No.II, Nagapattinam to proceed with the case as against accused No.1 as expeditiously as possible.

Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.Judicial Magistrate No.II, Nagapattinam

2.Do Thro The Chief Judicial Magistrate,
Nagapattinam.

+1cc to Mr.S. Rajinikanth, Advocate sr.79325

+1cc to Mr.S.Sounthar, Advocate sr.79454

Cr1.O.P.No.13195/2011

kk(co)
nr 14/12/2018

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