

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.24009 of 2013

and

CRL.MP.No.1 of 2013

V.Rajendran Petitioner/Accused
Vs.
MurugananthamRespondent/Complainant

PRAYER: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in STC No.627 of 2013 on the file of the learned Judicial Magistrate, Ariyalur and quash the same.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed by the accused to quash the proceedings against him in STC.No.627 of 2013, on the file of the learned Judicial Magistrate, Ariyalur.

2.The learned counsel for the petitioner has submitted that the respondent herein is an advocate and he was convicted in S.C.No.196 of 2003 on the file of the learned Principal Sessions Judge, Namakkal District, on 28.03.2012, for the offence punishable under Section 4 of Dowry Prohibition Act, under Section 494, 498(A), 506(ii) of I.P.C and also under Section 3(1)(x) of SC/ST Act and sentenced to undergo imprisonment for various terms. As against the said Judgement of conviction and sentence, the respondent herein has filed an appeal before this Court and the same was also dismissed confirming the judgment of conviction and sentence awarded by the Trial Court. He further submitted that after conviction made by the learned Principal Sessions Judge, Namakkal, the defacto complainant in that case namely Tmt.P.Dhamayanthi, who is also an advocate, had sent a complaint to the Bar Council of Tamil Nadu and based on the same, the respondent was suspended from practising before the Courts. He further submitted that when the

fact remains so, the respondent has filed a private complaint before the learned Judicial Magistrate, Ariyalur on 13.12.2012, stating that on 16.11.2012, he approached the petitioner herein who is working as a Police Head Constable at Keelapalavur Police Station, Ariyalur (Taluk), with regard to take action based on the complaint given by one Balu and at that time, the petitioner herein has scolded the respondent by using filthy words and also criminally intimidated him. He further submitted that since the petitioner herein has not taken any action based on the complaint given by the said Balu, as it was relating to a Civil dispute, the respondent herein has filed a private complaint after sending the petitions to various authorities, who have not taken any action so far. He further submitted that even the allegations made in the complaint are taken as true, the petitioner cannot be prosecuted because the respondent herein was already convicted in S.C.No.196 of 2003 on the file of the learned Principal Sessions Judge, Namakkal, and in pursuance of the said conviction, he was remanded to the jail. He further submitted that the respondent is not at all an advocate because he was suspended by the Bar Council in pursuance of the conviction in Criminal case and hence, he prayed to quash the complaint against the petitioner herein.

3. Though notice was served on the respondent, he has not appeared either in person or through counsel.

4. In the complaint which was filed by the respondent before the learned Judicial Magistrate Ariyalur, he has stated that one Balu has filed I.P.No.2 of 2012, as he could not discharge the debts. Since, the said Balu received threats from his creditors, he approached the petitioner herein with a request to register a case against those creditors, but the petitioner herein did not take any action on the said complaint, and hence the respondent herein went to the aforesaid police station and asked the petitioner as to why he has not taken any action and at that time, the petitioner herein scolded the respondent as to why he is appearing for the persons like Balu who has cheated the creditors. For that the respondent replied that it is his prerogative to appear for a litigant. Immediately, the petitioner told him that "you and your family members are convicts and you were in Coimbatore jail and that is why you are appearing for unscrupulous persons".

5. The copy of the Judgment produced by the petitioner herein passed in S.C.No.196 of 2003 on the file of the learned Principal Sessions Judge, Namakkal, would show that on 28.03.2012, the respondent herein was

convicted under Section 4 of Dowry prohibition Act, under Sections 494, 498(A), 506(ii) of I.P.C and also under Section 3(1)(x) of SC/ST Act for various terms of imprisonment. Further, the learned counsel for the petitioner has submitted that as against the said Judgment of conviction and sentence, the respondent herein has filed an appeal before this Court and the same was also dismissed.

6. Taking into consideration of the afore said facts and also the fact that the defacto complainant in S.C.No.196 of 2003 on the file of the learned Principal Sessions Judge, Namakkal, had sent a complaint against the respondent to the Bar Council of Tamil Nadu and based on the same, the respondent herein was suspended from practising before any authorities, this Court is of the view that if the allegations made in the complaint are taken as true, the petitioner herein cannot be convicted and therefore, the proceedings against the petitioner in the above STC.No.627 of 2013 are liable to be quashed.

7. In the result, this Criminal Original petition is allowed. The proceedings as against the petitioner herein S.T.C.No.627 of 2013 on the file of the Judicial Magistrate, Ariyalur is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)
//True Copy//
Sub Assistant Registrar

stm/vv2
To

The Judicial Magistrate,
Ariyalur

ASK(17/12/2018)

CrI.O.P.No.24009 of 2013

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