

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.07.2018

Pronounced on : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.25694 of 2010

and

M.P.Nos.1 & 2 of 2010

1.R.Rajaselvam,
S/o.P.Rajendran.

2.Sekar,
S/o.Rajendran.

... Petitioners/Accused
Nos.2 & 3

/Vs./

1.State by Inspector of Police,
Vridhachalam Police Station,
Vridhachalam,
Cuddalore District,
Cr.No.152 of 2007.

..Respondent/Complainant

2.K.Nedumaran,
Advocate,
S/o.Kaliaperumal.

...Respondent/Defacto
Complainant

[The second respondent impleaded as
per the order of this Court dated
06.04.2017 in Crl.M.P.No.4863 of
2017 in Crl.O.P.no.25694 of 2010]

PRAYER: Criminal Original Petition is filed under Section 482
of the Code of Criminal Procedure, to call for the records
relating to the proceedings in P.R.C.No.43 of 2007 on the file
of the Judicial Magistrate Court No.I, Vridhachalam, Cuddalore
District, and quash the same.

For Petitioners: Mr.S.Senthilnathan

For R1 : Ms.V.Saratha Devi,
Government Advocate [Crl. Side]

For R2 : Mr.J.Perumalsamy

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O R D E R

The petitioners who are accused Nos.2 and 3 in P.R.C.No.43 of 2007 pending on the file of the Judicial Magistrate Court No.I, Vridhachalam have filed the above quash petition.

2.It is now informed to this Court by D.No.2107 of 2017 dated 13.03.2017 that P.R.C.No.43 of 2007 was committed to the Court of Sessions as S.C.No.119 of 2016 on 25.07.2016 for the offences under Sections 352, 294(b), 323, 326, 506(ii) r/w 34 of the Indian Penal Code and 3(1)(x) of Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989.

3.The petitioners submit that A1 in the complaint is the Hindu Sengunthar Backward Community Principal of Thangam Periyasamy Industrial Training Institute at Vridhachalam, the second accused is the Correspondent and the third accused is the son of the second accused. The petitioners herein are A2 and A3.

4.The defacto complainant in the above case is one K.Nedumaran and the victim is one Palaniammal, who belongs to Hindu Adi Dravidar Community.

5.The petitioners herein are A2 and A3. The case of the prosecution is that on 29.05.2007 at about 01.00 p.m. the victim/Palaniammal was questioned by the first accused for sitting in a class, and called her to his room and questioned “காலையிலிருந்து நீ எங்கு சுற்றி வருகிறாய்” hurt by the same, the said Palaniammal had asked the first accused to mind his words. The first accused shouted at her asked her to get out of the room and attempted to assault her, fearing the same Palaniammal had come out of the room.

6.The said Palaniammal had immediately informed her sister namely Sumathy, who is an Advocate about the first accused. On the request of her sister Sumathy, the said Palaniammal was accompanied by her friend and Advocate namely Mr.K.Nedumaran at about 01.30 p.m. who questioned the first accused and informed that Palaniammal has got employment in another institute and requested return of original certificates, which was refused to be given and by using abusive language he had threatened the said Nedumaran and attacked him with an iron rod on his right shoulder. When the said Palaniammal questioned the same, the first accused is said to have used the abusive and objectionable language and had also kicked the said Palaniammal. In continuation of the same, when the said Advocate namely Nedumaran and Palaniammal came out of the Principal room, A2 and A3 had attempted to assault Nedumaran and also threatened them.

Hence, the charge sheet have been filed against them for the offences under Sections 352, 294(b), 323, 326, 506(ii) r/w 34 of the Indian Penal Code and 3(1)(x) of Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989.

7.The contention of the learned counsel for the petitioners is that the defacto complainant Nedumaran does not belong to Scheduled Caste or Scheduled Tribe Community and he cannot lodge a complaint under the Act, hence, the complaint is not maintainable. He further contended that absolutely there is no evidence to implicate the petitioners for the offences under Section 3(1)(x) of the Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989.

8.It is an admitted case that use of the prohibitory words by A1 inside his chamber, the petitioners herein namely A2 and A3 were not at all present and hence, they cannot be roped into for the offences under Section 3(1)(x) of the Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989. Further, entire happening has been happened inside the A1 room, other than A1 and Palaniammal none was there.

9.Further, according to the case of the complainant is that using of prohibitory words had taken place inside the Principal room where no public person was presented. Hence, no offence under Section 3(1)(x) of the Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989 is said to have been committed. Further, on the admitted facts it is found that no offence under Section 3(1)(x) of the Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989 is attributed to the petitioners herein. Hence, the case against them being tried before the Special Court/Sessions Court would be improper. The defacto complainant was arrayed as second respondent.

10.On going through the statement of witnesses and on records, it is found that uttering of the prohibitory objectionable words had taken place inside the chamber of the Principal and no public were presented. Further, it is an admitted case that as far as these petitioners are concerned. They were not present inside the Principal room. On coming to such conclusion, it is clear that as far as these petitioners are concerned, there is no ingredient and justification in arraying these petitioners for the offence under Section 3(1)(x) of the Schedule Caste and Schedule Tribes (Prevention of atrocities) Act, 1989.

11.Further, the defacto complainant, who is an Advocate had appeared before this Court filed an affidavit stating that the conversation between the defacto complainant and the Principal (A1) had taken place inside the chamber of the Principal and the Petitioners i.e. A2 and A3 were not present and they were not

involved in the alleged occurrence. The dispute between Palaniammal and the institute was with regard to return of her original certificates. It is now stated that the original certificates of Palaniammal had been handed over to her and she is employed elsewhere. Further, the dispute being resolved and they are in good relationship now. In view of the above, this Court feels that the case against the petitioners/accused Nos.2 and 3 are to be quashed.

12. Accordingly, this Criminal Original Petition stands allowed and the proceedings in P.R.C.No.43 of 2007 on the file of the Judicial Magistrate Court No.I, Vridhachalam, Cuddalore District is quashed as against A2 and A3. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Vridhachalam,
Cuddalore District.

2.The Inspector of Police,
Vridhachalam Police Station,
Vridhachalam,
Cuddalore District,
Cr.No.152 of 2007.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Senthil Nathan, Advocate, S.R.No.71032

rrs 30/10/2018

CrI.O.P.No.25694 of 2010