

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:04.10.2018

CORAM:

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

Crl.O.P.Nos.28478 & 28493 of 2010 and
M.P.Nos.1, 1 and 2 of 2010

1.G.Manimaran ...1st Petitioner in both Crl.OPs

2.G.Karthikeyan ...2nd Petitioner in Crl.OP.No.28493/10

Vs.

1.State Rep. by
Sub Inspector of Police,
Nannilam Police Station,
Tiruvarur District. ... 1st Respondent in both Crl.OPs

2.B.Anparasan @ Balaji ... 2nd Respondent in
Crl.OP.No.28493/10

Prayer in Crl.OP.No.28478/2010: Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondent to re-investigate Crime No.183 of 2010 which is pending in C.C.No.224 of 2010 on the file of the learned District Munsif cum Judicial Magistrate, Nannilam.

Prayer in Crl.OP.No.28493/2010: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.221 of 2010 on the file of the learned District Munsif cum Judicial Magistrate, Nannilam and quash the same.

(In both Crl.OPs)

For Petitioners : Mr.V.Krishnamoorthy

For Respondents: Mr.P.Govindarajan
Additional Public Prosecutor
(for R1 in both the Crl.OPs)

Mr.T.Muruganantham (for R2)
in Crl.OP.No.28493/2010

COMMON ORDER

The criminal original petition in Crl.O.P.No.28478 of 2010 was filed by the petitioner/defacto complainant directing the respondent police to re-investigate the crime registered in Crime Number 183 of 2010 which is pending in C.C.No.224 of 2010 on the file of the learned District Munsif cum Judicial

Magistrate, Nannilam.

2.The second criminal original petition in CrI.O.P.No.28493 of 2010 was filed by the petitioners/accused against the final report filed by the respondent police which was taken on file by the learned District Munsif cum Judicial Magistrate, Nannilam in C.C.No.221 of 2010.

3.I heard Mr.V.Krishnamoorthy, learned counsel for the petitioners, Mr.P.Govindarajan, learned Additional Public Prosecutor for the 1st respondent and Mr.T.Muruganantham, learned counsel for the 2nd respondent and perused the entire materials available on record.

4.Brief case of the petitioners/accused in CrI.O.P.No 28493 of 2010:

The prosecution case is that the defacto complainant Anbarasan @ Balaji residing along with his parents and they have possessed some paddy fields and cattle. There had been animosity between them and the family of Manimaran for some years with regard to the dispute of lands. One Venkatesan brother-in-law of Anbarasan informed to him over the phone at 9 AM on 14.6.2010 that there was a wordy altercation when he questioned Manimaran as to why he had beaten the oxen which was grazing on his field. Then Anbarasan rushed to the spot and shouted at Manimaran for beating the oxen as it did not have the ability to speak. At that time Manimaran and his brother Karthikeyan abused Anbarasan with the filthy language stating that his son is Bastard, and the son of kuchikari, and Manimaran started attacking Anbarasan with the long knife (Aruval) and caused injury on his head. Karthikeyan who stood there beside Manimaran also attacked Anbarasan with a knife on his hip and caused injury. Immediately he fell down on the ground. Moreover, as they left, they said that they could not spare Anbarasan without eliminating him and the entire occurrence was witnessed by Balu. Then he was admitted to the hospital for treatment by his father. Therefore the respondent police registered the FIR against the petitioners/accused for the offences punishable under sections 294(b) 324, 506(ii) of IPC in Crime Number 183 of 2010.

5.The respondent police conducted investigation and filed the final report against the petitioners/accused for the offences under sections 294(b), 324, and 506(ii) of IPC dated 4.8.2010.

6.The defacto complainant filed the direction petition under section 482 of Cr.P.C. in CrI.O.P.No.28478 of 2010 alleging that the respondent police did not record their statements properly and written something on their own.

7.The case of the defacto complainant is that in the complaint given by him he has mentioned 3 persons who have attacked and scolded him and specified the overtacts against the other 2 persons namely Ilaiyaraja and Ramachandran. In their 162 statements, categorically stated that they have been assaulted and attacked by 4 known persons and specified the overtact of each person. Therefore, he approached this Hon'ble Court to reinvestigate the Cr.No.183 of 2010 which is pending in C.C.No.224 of 2010.

8.The learned counsel for the petitioners/accused submits that according to police standing order 566 if there is case and counter, the police have to fix the aggressors after proper investigation and register the case against the aggressors. But here the police had registered both the cases and it shows that the police had deliberately foisted case on the petitioners with the malafide intention.

9.The learned counsel for the petitioners/accused submits that the nature of injuries shown in medical report does not correspond to the charges punishable under the Indian Penal Code foisted by the police. Hence it is evident that the charges are false and fabricated.

10.The learned counsel for the petitioners/accused submits that the second respondent in order to escape from the prosecution lodged a counter complaint against the petitioners with an ulterior motive of taking vengeance upon them owing to animosity harbored by him against the petitioners.

11.The learned counsel for the petitioners cited the following decisions in support of their contentions:

1) 2005 (1) CTC 31 K.Jayasree Petitioner vs State by Inspector of Police, Sembiam.

2) 2011 (3) MWN (Cr) 474 Paulraj and others petitioners vs State by the Inspector of Police, Chennai.

12.In the case on hand admittedly there are two FIRs registered by the respondent police and one complaint was vigorously pursued and another was deferred for the reasons best known to the Police.

13.The respondent complainant was also accused by the defacto complainant for not registering their statements alleged by them. While such allegations, which, in the opinion of the Court, or serious in nature, or made against the investigating agency and process and in view of the crowning circumstance that if the trial is allowed, there would be an acquittal which is seen from the records. Therefore, this Court feels fit to quash the both cases which was taken cognizance by the learned Judicial Magistrate.

14.In the result:

a) These Criminal Original Petitions are allowed ;

b) The case in C.C.Nos.221 and 224 of 2010 on the file of the learned District Munsif-cum-Judicial Magistrate, Nannilam are quashed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The District Munsif cum Judicial Magistrate,
Nannilam.

2. The Sub Inspector of Police
Nannilam Police Station, Thiruvavarur District.

3. The Public Prosecutor
High Court, Madras 104.

+2 Ccs to Mr.V.Krishnamoorthy, Advocate sr 68409 & 68410.

Crl.O.P.Nos.28478 & 28493 of 2010 and
M.P.Nos.1, 1 and 2 of 2010

SP(19/03/2019)

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