

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CrI.OP.No.8420 of 2016
and
MP.Nos.4393 and 4396 of 2013

1.Jayanthi
2.Ramachandran ... Petitioners/Accused 3 & 4

Vs.

1. V.Yobu
2. T.Sivasakthi ... Respondents 1 & 2/Complainants

3. G.Rajesh
4. N.Palanisamy ... 3rd & 4th Respondents/Accused 1 & 2

PRAYER : This Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.499 of 2008 on the file of the Judicial Magistrate VII at Coimbatore and quash the same.

For Petitioners : Mr.M.Aravind Subramaniam

For Respondents : No Appearance for R1 and R2

ORDER

This petition has been filed by the accused Nos.3 and 4 to quash the proceedings against them in C.C.No.499 of 2008 on the file of the Judicial Magistrate VII, Coimbatore.

2. The learned counsel for the petitioners has submitted that the respondents 1 and 2 were working as drivers in M/s.Seshraj Apparels Pvt. Ltd. He further submitted that M/s.VTX Industries Limited is the sister concern of the aforesaid company. He further submitted that the petitioners herein are Managing Directors of the aforesaid companies. He further submitted that on 07.08.2008, the respondent Nos. 1 and 2 / complainant Nos. 1 and 2 have committed theft of 20 litres of diesel from the vehicles belonging to the aforesaid companies and hence a complaint was lodged against them before the Kuniamuthoor Police Station and based on the said complaint, a

case was registered in Crime No.676 of 2008 under Section 379 IPC against respondent Nos. 1 and 2. He further submitted that in that case, the respondent Nos. 1 and 2 were arrested and remanded to the judicial custody and after one month, they have filed a private complaint before the Judicial Magistrate VII, Coimbatore stating that due to inducement made by the petitioners herein, the accused Nos.1 and 2 have assaulted them and obtained signatures in blank papers and hence they have to be punished under Sections 120-B, 211, 323, 357 and 500 IPC. He further submitted that the learned Judicial Magistrate after recording sworn statements, has taken cognizance only under Sections 323 and 357 IPC. He further submitted that the complainants have not challenged for not taking the case on file under Sections 120-B, 211 and 500 IPC. He further submitted that in the complaint, the complainants have simply stated that due to inducement made by the petitioners herein the accused Nos.1 and 2 assaulted them and obtained signatures in blank papers and that there is no evidence that the petitioners herein have induced the accused Nos. 2 and 3 to commit any offence. He further submitted that the aforesaid case has been filed as a counter blast with a view to escape from the case registered against the respondent Nos.1 and 2 herein under 379 IPC. He further submitted that after filing of the aforesaid case, the management has settled the amounts due to the respondent Nos. 1 and 2 herein and they were relieved from the aforesaid companies. He further submitted that the respondent Nos. 1 and 2 are not appearing before the Trial Court as well as this Court even after receipt of notice from this Court and hence he requests to quash the proceedings against the petitioners herein.

3. Though, notice was served on the respondents 1 and 2, they have not appeared either in person or through counsel. Since respondents 3 and 4 are co-accused, notice to them is dispensed with. Hence, after hearing the arguments of the learned counsel for the petitioners and perusing the records, the order is being passed in this petition.

4. In the complaint filed by the respondent Nos. 1 and 2 before the Judicial Magistrate, it is stated that due to the inducement made by the petitioners herein, accused Nos.1 and 2 have obtained signatures in blank papers and also in stamp papers and also assaulted them. But it is not stated in the complaint that when and where the petitioners herein have induced the accused Nos. 1 and 2 to assault the respondent Nos. 1 and 2 and also to obtain signatures in blank papers. It is to be pointed out that the learned Judicial Magistrate has not taken the case on file under Sections 120-B, 211 and 500 IPC. On the contrary, he has taken the case under Sections 323 and 357 IPC only. The respondent Nos. 1 and 2 have not challenged

the order of the Magistrate with regard to not taking the case under Sections 120-B, 211 and 500 IPC. As already stated that as per the complaint, the petitioners herein have not assaulted the respondent Nos. 1 and 2 and they have not obtained signatures in blank papers. Under the said circumstances, the proceedings against the petitioners have to be quashed.

5. It is also to be pointed out that in the complaint, it is stated that the complainants were arrested in the theft case and remanded to judicial custody. At the time of remand they have not stated that they were assaulted either by the petitioners herein or by other accused persons. Further, they have not produced Medical Certificates to show that they were assaulted by some persons. Taking into consideration of all the aforesaid facts this Court is of the view that continuation of the proceedings against the petitioners herein in C.C.No.499 of 2008 on the file of the Judicial Magistrate No.VII, Coimbatore, would amount to abuse of process of law.

6. In the result, this petition is allowed. The proceedings in C.C.No.499 of 2008 on the file of the Judicial Magistrate No.VII, Coimbatore are quashed in so far as the petitioners herein alone. The concerned Judicial Magistrate has to proceed against the other accused persons and dispose of the case in accordance with law uninfluenced by the observations made by this Court in this Order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate VII,
Coimbatore.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Aravind Subramanian, Advocate, S.R.No. 72085

Cr1.OP.No.8420 of 2016
and

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GN(16/11/2018)