

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CRL.O.P.NOS.13423 OF 2011 & 8426 OF 2010

AND

M.P.NOS.1 & 2 OF 2011 IN CRL.O.P.NO.13423 OF 2011

& M.P.NO.1 OF 2010 IN CRL.O.P.NO.8426 OF 2010

1.Jothi ...1st petitioner in Crl.O.P.no.13423 of 2011
& sole petitioner in Crl.O.P.No.8426 of 2010

2.Kaliyamurthy
3.Rajendran
4.Azhagar
5.Vaithyanathan ...petitioners 2 to 5/Accused
in Crl.O.P.No.13423 of 2011

Versus

G.Rajamanickam ...sole respondent in Crl.O.P.No.13423 of 2011
& 2nd respondent/defacto complainant
in Crl.O.P.No.8426 of 2010

State Rep. by
Inspector of Police,
Annamalai Nagar Police Station,
Cuddalore District. ...1st respondent in Crl.O.P.No.8426 of 2010

Prayer in Crl.O.P.No.13423 of 2011:

This Criminal Original Petition is filed under Section 482 Cr.P.C praying to call for the records and quash the proceedings in C.C.No.152 of 2010 on the file of the Judicial Magistrate No.1, Chidambaram, Cuddalore District.

Prayer in Crl.O.P.No.8426 of 2010:

This Criminal Original Petition is filed under Section 482 Cr.P.C praying to call for the records and quash the proceedings in Crime No.66 of 2010 on the file of the Inspector of Police, Annamalai Nagar Police Station, Cuddalore District.

For Petitioners in
both Crl.O.Ps

: for Mr.N.Anand Venkatesh
Adithya Varadharajan

For sole respondent
in Crl.O.P.No.13423
of 2011 & 2nd respondent
/defacto complainant
in Crl.O.P.No.8426 of 2010

: Mrs.P.Srividhya
for M/s.A.Muthu Kumar

COMMON ORDER

The petitioners are arrayed as accused in C.C.No.152 of 2010 on the file of the Judicial Magistrate No.I, Chidambaram, Cuddalore District and Mrs.Jothi as accused in Crime No.66 of 2010 on the file of the Inspector of Police, Annamalai Nagar Police Station, Cuddalore District. The first petitioner is the wife of the respondent/complainant who filed a private complaint under Section 200 Cr.P.C before the Judicial Magistrate No.I, Chidambaram against the petitioners/accused for the alleged offences punishable under Sections 379, 380, 447, 448, 451 & 457 of I.P.C on 16.06.2010.

2. The learned Judicial Magistrate took cognizance of the above said offences and issued summons to the accused. The petitioners in the instant petition have contended that the respondent/complainant has filed the private complaint in C.C.No.152 of 2010 before the Judicial Magistrate - I, Chidambaram with a mala fide intention to wreck vengeance against them.

3. According to them, they are no way connected with the offences alleged in the private complaint filed by the respondent/complainant and that the entire proceedings in C.C.No.152 of 2010 on the file of the Judicial Magistrate - I, Chidambaram is liable to be quashed.

4. The learned counsel appearing for the petitioners contended that in the private complaint, though it is alleged that accused stole the articles mentioned in the complaint on 16.03.2010, the private complaint was filed only on 16.06.2010 i.e., after a delay of three months.

5.1. It is also pertinent to point out that the respondent/complainant on an earlier occasion on 20.03.2010 had lodged a complaint with the Inspector of Police, Annamalai Nagar Police Station, Cuddalore District which was registered as Crime Number.66 of 2010 of Annamalai Nagar Police Station against the

first petitioner alone contending that she has committed offences punishable under Sections 448, 506(ii) & 342 of I.P.C and nowhere in the complaint it is stated that the present petitioners also committed theft of the articles mentioned in the private complaint. In fact, the allegations in Crime No.66 of 2010 on the file of the Inspector of Police, Annamalai Nagar Police Station and the allegations in the private complaint in C.C.No.152 of 2010 are diagonally opposite. Therefore, the private complaint in C.C.No.152 of 2010 and the complaint in Crime No.66 of 2010 of Annamalai Nagar Police Station clearly shows that it is an abuse of process of law and on this sole ground alone, the entire proceedings pending before the Judicial Magistrate - I, Chidambaram is liable to be quashed.

5.2. Apart from that, the first petitioner, the wife of the respondent/complainant (Rajamanickam), had obtained an order dated 18.06.2010 in C.M.P.No.899 of 2010 filed under Section 12 of Protection of Women from Domestic Violence Act, to enter into her house in order to take all her belongings with the help of the Police. A perusal of the private complaint as well as the complaint preferred by the respondent/complainant shows that there is a matrimonial dispute between the first petitioner and the respondent/complainant had also preferred a complaint dated 20.03.2010 (Crime No.66 of 2010) before the Annamalai Nagar Police Station, which according to the learned Government Advocate (Crl.Side) was closed as mistake of fact. In the facts and circumstances, I hold that the entire proceedings in C.C.No.152 of 2010 on the file of the Judicial Magistrate No.I, Chidambaram, Cuddalore District and Crime No.66 of 2010 on the file of the Inspector of Police, Annamalai Nagar Police Station, Cuddalore District are liable to be quashed.

6. In the result, these Criminal Original Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mrr

To

1. The Judicial Magistrate No.1,
Chidambaram,
Cuddalore District.

2. The Inspector of Police,
Annamalai Nagar Police Station,
Cuddalore District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.A.Muthu Kumar, Advocate, S.R.No.43497

+2cc to Mr.A.E.Ravichandran, Advocate, S.R.No.43720 & 43721

Crl.O.P.Nos.13423 of 2011
& 8426 of 2010

CP(CO)
CS/30/08/18



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