



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

CORAM :

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

CRL.A.No.50 of 2010

M.Jeevanandham

... Appellant

-Vs-

1.Balaji
2.Siva
3.Prakasam
4.Thandalam Mohan
5.Murugan
6.Vijayan

... Respondents

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., praying to set aside the judgment dated 13.05.2008 made in C.C.No.141 of 2007 on the file of the learned Chief Judicial Magistrate, Chengalpet.

For Appellant : No Appearance

For Respondents : Mr.T.R.Ravi

ORDER

The appellant is the complainant and he has filed the private complaint before the learned Chief Judicial Magistrate, Chengalpet on 04.12.2006 for the allegations that the 1st respondent one Mr.Balaji, Sub-Inspector of Police, attached to T-14, Mangadu Police Station, Chengalpet District, has concocted the complaint of one Mr.Ashokan son of Duraiswamy, No.2/188, Bhajanai Koil Street, Moulivakkam, Chennai-116, has fabricated a false F.I.R. for the offences under Sections 323 and 341 of I.P.C., and registered a case against the this petitioner, who is a complainant in Crime No.672 of 2006, on the file of T-14 Mangadu Police Station.

2.Pursuant to the above complaint in Crime No.672 of 2006, registered against the petitioner, he was arrested on 13.04.2006 and thereafter released on 15.11.2006.



3. At the time of arrest, the 1st respondent/accused and other accused were join together to retain the petitioner and produce before the learned Judicial Magistrate, Tambaram, on 14.11.2006. Therefore, after releasing from the jail on 15.11.2006, the complainant consulted his family Doctor K.Mahadevan, who is retired Senior Civil Surgeon and after his examination and after treated him and the complainant narrated the entire episode at the Police Station and the assault by the Police.

4. The petitioner/complainant further states that due to the above act and happenings at T-14 Mangadu Police Station between 06.00 p.m. on 13.11.2006 and 01.15 pm on 14.11.2006 would disclose the commission of the following offences within the cognizance of the Court, which is as follows:

"a. forging the remand report with false particulars - the complainant was surrendered before the T.14 Mangadu Police Station on 13.11.2006 at 6 p.m. by Mr. Davis Elangovan, Advocate who is witness in this case, on the contrary, the first accused forged the remand report with false particulars as if the complainant was arrested before Mallika Theare, Mangadu at about 7 a.m. on 14.11.2006. Hence the first accused had committed offences under Section 465 and 471A IPC.

b. Assaulting the complainant indiscriminately in the police station and also dragging the complainant from one end to another shackled in leading chains. The above act and treatment would invite action for offences under Section 323 IPC against all the accused.

c. All the accused, who are public servants have disobeyed the law with intent to cause injury to the complainant inviting action for offence under Section 166 I.P.C. besides.

d. All accused have committed offences u/s. 294(b) I.P.C. as they employed obscene languages against the complainant by shouting

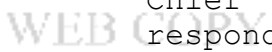
"நீ என்ன ஊரில் பெரிய மைரா, பெரிய பெரிய ஆள்ளெல்லாம் அடித்து உள்ளே போட்டுள்ளேன், ரொட லிஸ்டில் சேர்த்து விடுவேன். மிசாவில் போடுவேன்"

ந, All accused also intimidated the complainant by threatening with injury to his reputation and person and thereby committed offences u/s. 506(i) I.P.C.

f. Besides for using criminal force against the complainant otherwise than on grave provocation, the accused have committed offence punishable u/s 352 I.P.C.

g. Similarly, assault and criminal force employed against complainant by the accused, dishonouring the complainant and on this score the accused have committed offences punishable u/s. 355 I.P.C."

5. Therefore, in the above circumstances, the petitioner/complainant has approached the learned Chief Judicial Magistrate, Chengalpet and filed a complaint in C.C.No.141 of



6. After taking cognizance in the complaint, the learned Chief Judicial Magistrate has issued summons to these respondents/accused for their appearance and accordingly they were regularly appeared before the said Court. But the petitioner who is the complainant or his counsel were not appeared before the learned Chief Judicial Magistrate, Chengalpet.

"3.All the accused appeared. Inspite of the stringent orders of the previous hearings. Neither the complainant nor did his counsel appear today in the first calling by 11.30 A.M. when the matter is taken in the second calling by 1.25 p.m., complainant absent. No representation from the complainant is made. All the six accused present. In these circumstances, this court is left with no option but to dismiss the complaint u/s 256 of Cr.P.C. for non-prosecution. Hence, this case is dismissed for default u/s 256 of Cr.P.C. and all the accused are acquitted u/s 256(1) of Cr.P.C."

8. When the matter came up for hearing on 27.01.2010, this Court was pleased to Admit and issue Notice and Private Notice for appearance of the respondents. Thereafter, the respondents were engaged the counsel and appeared before this Court.

10. When the matter has been taken up today, the learned counsel for the respondent/accused argued before this Court that as per the complaint given by one Mr. Ashokan, the case was registered against the petitioner/complainant in Crime No. 672 of 2006 for the offences under Sections 323 and 341 IPC. But taking vengeance against these respondents/accused on the allegations



that these respondents/accused were beaten the complainant on 13.11.2006 and hence he sustained injuries, this false private complainant in C.C.No.141 of 2007 was filed against the respondents/accused. After receiving the summons in C.C.No.141 of 2007 issued by the learned Chief Judicial Magistrate, Chengalpet by engaging an Advocate, these respondents were regularly appeared before the Court, but after appearance of the several hearings, the petitioner/complainant had never appeared before the Court below and finally on 13.05.2008, the complaint filed by the petitioner/accused in C.C.No.141 of 2007 was dismissed for non-prosecution and acquitted all the respondents/accused.

11. Thereafter, the present appeal has been filed before this Court, even before this Court, they were engaged the counsel and paid the fees. If alleged occurrence set out by the petitioner/complainant in C.C.No.141 of 2007 was really happened, definitely the petitioner/complainant would pursue his case, but after filing the complaint before the learned Chief Judicial Magistrate, Chengalpet, he never appeared before the Court and now in this appeal also he has not appeared for the reason best known to him.

12. Therefore, the learned counsel Mr.T.R.Ravi, appeared before this Court for these respondents/accused has vehemently stated that unnecessarily the respondents/accused were dragged by the complainant by way of private complaint and also in this Criminal Appeal and harassed by these respondents/accused. Hence, these respondents/accused from 2008 onwards are suffering like anything due to filing of the complaint in C.C.No.141 of 2007 and this appeal in C.A.No.50 of 2010. Hence, the learned counsel Mr.T.R.Ravi, has prayed this Court that the appeal may be dismissed with compensation and heavy cost.

13. On perusal of the complaint in C.C.No.141 of 2007 and the order passed by the learned Chief Judicial Magistrate, Chengalpet, on 13.05.2008 in the complaint in C.C.No.141 of 2007 it is made clear that though the petitioner/complainant has made out in the complaint some allegations against the respondents/accused that the 1st respondent Sub-Inspector of Police has instigated one Mr.Ashokan and given a false complaint and the other respondents were beaten the complaint which was registered in Crime No.672 of 2006 against this petitioner/complainant, but after issuing summons in C.C.No.141 of 2007 to the respondents/accused, the petitioner/complainant have not appeared before the Court, hence the learned Judge has rightly dismissed the complaint on 13.05.2008, but thereafter, this appeal which was filed before this Court also there was no representation on behalf of the appellant or his counsel.



14.The petitioner, who is the complainant setting out the allegations against the respondents/Police officials in his private complaint filed before the learned Chief Judicial Magistrate, Chengalpet. It is his bounden duty to prove the same by way of giving evidence and producing documents. But in the petitioner's case, it was absolutely lack, since the petitioner himself has not appeared before the learned Chief Judicial Magistrate in the complaint in C.C.No.141 of 2007 and not adducing any evidence or producing any witnesses or the documents. In fact, he has also absolutely failed to prove before this Court also in this appeal, since even today there was no appearance for the petitioner/complainant in this appeal. But, it made clear that only to drag the respondents/accused from Pillar to Post the private complaint has been filed. It is my absolute view that this private complaint has been filed only with a personal vengeance against these respondents, who are the Police officials attached to T-14 Mangadu Police Station.

15.It is my absolute view that the petitioner/complainant had himself having personal vengeance against the respondents/accused and defame their names in the public has instituted this private complaint before the learned Chief Judicial Magistrate, Chengalpet, but he has failed to prove the same either before the learned Chief Judicial Magistrate, Chengalpet, or before this Court in this appeal. But, on the other hands, these respondents who are the accused were regularly appeared before the learned Chief Judicial Magistrate, Chengalpet, in C.C.No.141 of 2007 and also appeared before this Court by way of appointing an Advocate by paying fees to the counsel.

16.Time and again, this Court and the Hon'ble Apex Court very categorically held that a false or frivolous complaint would be initiated by any person for defaming the name of the other opposite parties or the accused, they should be punished. In the case on hand, it was alleged by the petitioner/complainant that the false complaint was registered against this petitioner by creating a bogus complaint by namely one Mr.Ashokan and based on the case, the respondents were beaten the petitioner/complainant. But from the year 2007 onwards till date, the petitioner/complainant has not proved his allegations in the private complaint and hence this appeal ought to be dismissed with exemplary compensation of the respondents/accused. Therefore, I proposed to direct the petitioner/complainant for dis-proving the complaint in C.C.No.141 of 2007 ought to have paid a sum of Rs.10,000/- each to the respondents/accused as compensation and also some exemplary cost which will meet the ends of justice.



17. In the result:

(a) this Criminal Appeal is dismissed by confirming the order in C.C.No.141 of 2007 dated 13.05.2008 passed by the learned Chief Judicial Magistrate, Chengalpet;

(b) the petitioner/complainant is hereby directed to pay a sum of Rs.10,000/- each respondents by way of compensation to these respondents within a period of two weeks;

(c) the petitioner is directed to pay the cost of a sum of Rs.10,000/- to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras-104;

(d) if the petitioner/complainant has not paid the compensation to the respondents/accused and the cost to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras-104, the learned Chief Judicial Magistrate, Chengalpet, is hereby directed to issue Non-Bailable Warrant against this petitioner/complainant and send him to prison for a period of six months.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Chief Judicial Magistrate, Chengalpet.

2. The Chairman, Tamil Nadu, Mediation and Conciliation Centre, High Court, Madras.

+ 1 cc to Mr. T.R. Ravi, Advocate Sr.30806

Cr1.A.No.50 of 2010

(CS-DR)

EU(04/05/2018)