IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.12.2017

Pronounced on : 13.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.25763 of 2017

Kamalakannan .. Petitioner

Vs.

1.The Home Secretary,
Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Additional Director General of Police,
Human Rights and Social Justice,
Police Head Quarters,
Kamarajar Salai,
Mylapore,
Chennai-600 004.

3.The Superintendent of Police,
District Police Office,
Dharmapuri District,
Dharmapuri.

4.The Inspector of Police,
District Crime Branch,
Dharmapuri District,
Dharmapuri. .. Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the fourth respondent to register the case on the petitioner's complaint dated 16.11.2017.

For Petitioner	:	Mr.S.Radhakrishnan
For Respondent Nos.1 to 4	:	Mr.C.Iyyaparaj Additional Public Prosecutor
For Intervenor	:	Mr.A.Ilangovan

ORDER

The present petition is for a direction to the fourth respondent to register the petitioner's complaint dated 16.11.2017. The grievance of the petitioner in the complaint is that the top ranking officials of Repco Bank had given a false complaint of misappropriation against him and since he belongs to schedule caste community and also holds the post of General Secretary of the Repco Bank Schedule Caste/Schedule Tribe Employees Welfare Association, the top officials of the Bank are liable to be prosecuted for the offences under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

2.Heard Mr.S.Radhakrishnan, learned counsel for the petitioner and Mr.C.Iyyapparaj, learned Additional Public Prosecutor for the respondents 1 to 4 as well as Mr.A.Ilangovan, learned counsel for the Intervenor.

3.In normal circumstances, this Court would be inclined to direct the jurisdictional Investigating Officer to conduct a preliminary enquiry for the purpose of ascertaining as to whether a cognizable offence has been made out or not and consequentially take a decision on the same. However in the present case, I am constrained to look into few more facts put-forth by the intervenor, who is the representative of the Repco Bank and make the following observations.

4.A complaint came to be made against the petitioner herein alleging that he had abused his official position and connived with third parties and had misappropriated loan amounts/funds sanctioned to borrowers by committing irregularities. The complaint against him came to be registered in Cr.No.9 of 2017 dated 15.11.2017 for the offences under Sections 409, 420, 423, 467, 468, 477A IPC.

5.The complaint to the said FIR was preferred on 27.09.2017 and the investigation is pending. In the meantime, disciplinary action was also initiated against the petitioner herein for the aforesaid misconducts and he was suspended from his service and issued with a charge memo. It is in this background that the petitioner had made a complaint on 16.11.2017 stating that he had been falsely implicated and therefore sought for registration of complaint against various bank officials alleging commission of offences under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. On a perusal of the petitioner's complaint dated 16.11.2017, the averments therein suggests that the complaint has been falsely given with an intention of humiliating him and since he belonged to schedule caste community, he sought for registration of a complaint against the top ranking bank officials under the Special Act.

6.I am unable to comprehend as to how the complaint can, at any stretch of imagination, make out an offence under the Special Act. The criminal case registered against the petitioner herein was on the basis of the report of a special team of officials of the bank, constituted as per the direction of the Board of Directors, reporting serious discrepancies including procedural lapses and misappropriation of funds, embezzlement of deviously sanctioned loans and disbursal of loans without the knowledge of the officials. The complaint based on the report of the special team is now pending investigation. Till a final report is filed in the FIR, it cannot be said that the complaint is false. While that being so, the very basis on which the petitioner has made this complaint dated 16.11.2017, to initiate criminal proceedings against the top ranking bank officials, itself is baseless.

7.Having found that there is no cause of action for the police to initiate a criminal proceedings against these top ranking bank officials, the consequential aspect as to whether the offences under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 has been made out needs to be addressed.

8.The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 has been enacted by the Parliament with a pious intention of preventing the commission of offences against the members of the Scheduled Castes and Schedule Tribes among its other objects. The intention of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 was to prevent and safeguard the atrocities committed against the members of the deprived classes which continued at disturbing levels, despite deterrent provision made in the Special Act of 1989. While the Act safeguards and protects such atrocities committed against the members of the scheduled castes and scheduled tribes, it is disturbing to realize that the provisions of the Act are also been attempted to be misused by a few. The present case in hand is a classic example of one such misuse.

9.The complaint made by the petitioner is that a false case of misappropriation has been lodged against him. Admittedly, the case is under investigation. There is no provision under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 or any other Act to implicate the bank officials for having lodged a complaint against the petitioner herein, on the basis of report of a Special Team constituted by the Board of Directors of the bank. The complaint lodged against the petitioner cannot be said to be an act of atrocity against the petitioner. Just because the petitioner happens to be a member of the Schedule Castes/Schedule Tribes community or is the General Secretary of Repco Bank Schedule Castes and Schedule Tribes Employees Welfare Association, he cannot claim immunity from any criminal action. It is always open to the petitioner to participate in the investigation and put-forth his defence. Likewise, when the registration of the complaint against the petitioner came to be published in the media, the officials of the bank cannot be held responsible for publishing the matter. It is the freedom of the press to report permissible news and it is not the case of the petitioner that bank officials had instigated the media to publish the news. In the absence of any of the offences under the Special Act being made out, the respondent police will not be justified in registering the petitioner's complaint dated 16.11.2017.

10.It would not be out of place to mention here that the petitioner herein had sent various other complaints to police officials through registered post on 06.07.2017, 01.08.2017, 22.08.2017 and 16.11.2017. These complaints would only indicate that the petitioner is attempting to thwart the disciplinary proceedings and criminal action contemplated against him, which would clearly amount to an abuse of process of law. Even in the present case, the petitioner had chosen to give the complaint dated 16.11.2017 to the Home Secretary, Government of Tamil Nadu, Secretariat, Chennai and had marked the copies to the Additional Director General of Police, Human Rights and Social Justice, Mylapore, Chennai, the Superintendent of Police, Dharmapuri and the Inspector of Police, District Crime Branch, Dharmapuri, who are the respondents 1 to 4 herein. When the fourth respondent alone is the jurisdictional officer to look into the petitioner's complaint, addressing the respondents 1 to 3 herein is not only unwarranted but would also amount to an abuse of process of law.

11.As mentioned earlier, this Court would not normally step into the shoes of the Investigating Officer to look into the complaint, but would direct the concerned jurisdictional police officer to conduct a preliminary enquiry. Nevertheless, in view of the background of the averments made in the complaint, this Court is constrained to look into the facts of the complaint made by the petitioner and render the above findings.

12.In the result, I do not find any merits in the petition filed by the petitioner herein. Accordingly, the Criminal Original Petition stands dismissed.

13.03.2018

Speaking
Index:Yes
Internet:Yes
DP

To

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4.The Inspector of Police,
District Crime Branch,
Dharmapuri District,
Dharmapuri.

5.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH.J,

DP

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