

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.5616 of 2011
and
Crl.M.P.Nos.1 and 2 of 2011

Sakkarai @ A.Sakkarapani ... Petitioner/Sole
Accused

//vs//

1. Kumar ... Respondent No.1/
de-facto complainant

2. State
Represented by the Inspector of Police,
E5, Coovathoor Police Station,
Kancheepuram District
(Crime No.9 of 2010). ... Respondent No.2/
de-facto complainant

Prayer : Criminal Original Petition filed under Section 482 of
Cr.P.C. To call for the records pertaining to P.R.C.No.17 of
2010 on the file of the Judicial Magistrate, Tirukalikundram and
quash the same.

For Petitioner : Mr.K.S.Kumar

For 1st Respondent : Mr.V.G.Anbarasu

For 2nd Respondent : Ms. Saraladevi,
Government Advocate (Crl.Side)

ORDER

Heard Mr.K.S.Kumar, learned counsel appearing for the
petitioner and Mr.V.G.Anbarasu, learned counsel appearing for
the first respondent and Mrs.Saraladevi, learned Government
Advocate (Crl. Side) appearing for the 2nd respondent.

2. The petitioner A.Sakkarai @ A.Sakkarapani has filed the present petition under Section 482 of Cr.P.C to call for the records in P.R.C.No.17 of 2010 on the file of the Judicial Magistrate, Tirukalukundram and quash the same. The petitioner is the sole accused in Crime No.9 of 2010, E5 Coovathoor Police Station, Kanchipuram District. The Inspector of Police had registered a First Information Report against the accused for the alleged offences punishable under Sections 323, 324, 506(ii) of IPC read with Section 3(1)(x) of SC/ST Prevention of Atrocity Act 1989, based on the complaint given by one S.Kumar, S/o Shanmugam. A perusal of the First Information Report shows that on 04.01.2010, the de-facto complainant S.Kumar was returning back at about 10.00 p.m from Periyakuppam in his Car and at that time, the accused A.Sakkarai stopped his car and picked up quarrel with him by threatening that he will kill him. According to the complainant, the accused abused his driver in filthy language by mentioning his Caste name. Investigation was conducted by the Deputy Superintendent of Police and a final report was also filed before the Judicial Magistrate, Tirukalukundram in P.R.C.No.17 of 2010. The primordial contention of the petitioner is that since the complainant S.Kumar is not an aggrieved party, the Deputy Superintendent of Police is wrong in filing a final report for the offences under Section 341, 324, 323, 506(i) of IPC and Section 3(1)(x) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989. His specific contention is that, even according to the complainant S.Kumar, the accused abused only his driver Sudakar in filthy language mentioning his caste name and that though the said Sudakar has been shown as one of the witnesses, the final report filed by the Deputy Superintendent of Police cannot be sustained, as far as Section 3(1)(x) of Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

3. Per contra, Mr.K.S.Kumar, learned counsel appearing for the first respondent/de-facto complainant contended that the Deputy Superintendent of Police took up investigation and recorded the statements of the witnesses S.Kumar, P.Sudakar, J.Prabakaran, R.Ramu, S.Kalaimani, S.Harikrishnan,, V.Chellappan and K.Sathya and since it transpired during the course of investigation that the offences punishable under Section 341, 324, 323, 506(i) of IPC and Section 3(1)(x) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 had been committed by the accused, a final report was filed before the learned Judicial Magistrate, Thirukalukundram in P.R.C.No.17 of 2010.

4. Mrs. Saraladevi, learned Government Advocate (Crl.Side), appearing for the 2nd respondent would contend that the investigation has been properly done by the Deputy Superintendent of Police and there is no material on record to quash the final report filed by him.

5. It is pertinent to mention that the First Information Report has been lodged by the Inspector of Police, on the basis of the complaint given by the de-facto complainant S.Kumar. In his complaint, he has contended that the accused/present petitioner herein unlawfully restrained him and also threatened him with dire consequences. His further contention is that the accused abused his driver Sudakar/Witness No.2 in filthy language mentioning his caste name. Based on the complaint given by the de-facto complainant, First Information Report in Crime No.9 of 2010 on the file of E5 Koovathur Police Station, Kanchipuram District came to be registered and the Deputy Superintendent of Police had investigated the case and also filed a final report before the Judicial Magistrate, Thirukalukundram. Merely because the witness No.2/Sudakar has not lodged a complaint with the police, it cannot be stated that Section 3(1)(x) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 would not be attracted in the present case, especially when a final report has been filed. Apart from this, the investigation officer had recorded the statement of all the witnesses, including the victim Sudhakar. A perusal of the statement of Sudakar, recorded under Section 163(1) of Cr.P.C shows that he has been abused in filthy language mentioning his caste name by the accused/petitioner herein. Therefore, I do not find any reason to quash the proceedings of the case in P.R.C.No.17 of 2010 on the file of the Judicial Magistrate, Tirukalukundram.

6. Further more, it is settled law that the First Information Report and the consequent investigation cannot be quashed, unless there is no offence spelt out from the same, on the basis of the allegations alleged. Having regard to the allegations made in the final report and also the statement of witnesses recorded during investigation, I hold that a prima facie case has been made out against the petitioner and this court at this stage, cannot go into details of the veracities of the statements given by the witnesses or to conduct a detailed enquiry into the statements made by the witnesses to arrive at a conclusion that there is no basis to proceed against the petitioner.

6. In the result, this Criminal Original Petition is dismissed. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Judicial Magistrate,
Thirukalukundram.
Kanchipuram District.

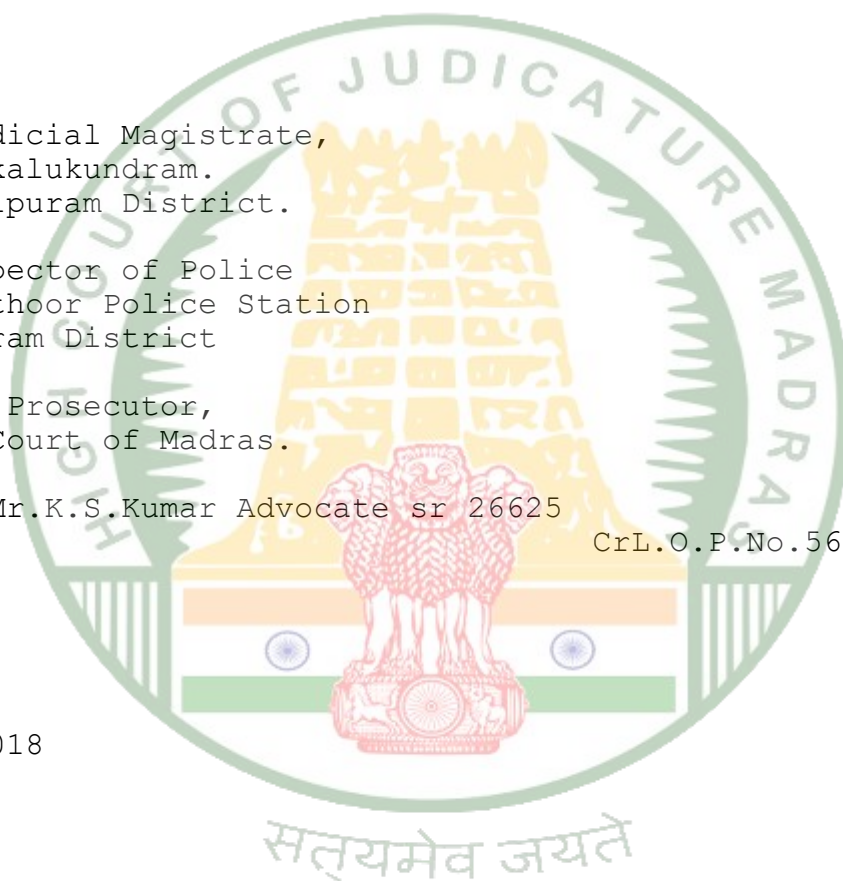
2.The Inspector of Police
E-5 Coovathoor Police Station
Kancheepuram District

3. Public Prosecutor,
High Court of Madras.

+1 cc to Mr.K.S.Kumar Advocate sr 26625

CrL.O.P.No.5616 of 2011

sai(co)
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