

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Crl.O.P. No.1311 of 2013

and

M.P. Nos.1 & 2 of 2013

1.Arasu  
2.Vijayakumari  
3.Rani  
4.Velliangiri  
5.Murugesan

.... Petitioners/Accused

Vs.

R.Arunagiri

.... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in C.C. No.273 of 2012 on the file of the Judicial Magistrate No.VI, Salem and quash the same.

For Petitioners : Mr.A.Thiyagarajan

For Respondent : Mr.A.Karthikeyan

ORDER

The petitioners herein are the accused in C.C. No.273 of 2012 on the file of the Judicial Magistrate No.VI, Salem.

2.The respondent/complainant filed a private complaint under Section 200 Cr.P.C against the petitioners/accused herein before the learned Chief Judicial Magistrate, Salem for the alleged offences punishable under Sections 34 r/w 109, 193, 120-B, 201, 211 and 221 of I.P.C. The learned Chief Judicial Magistrate, Salem recorded the statements of the complainant and the witnesses. However, he transferred the case to the file of Judicial Magistrate No.VI, Salem. The Judicial Magistrate No.VI, Salem, after perusing the statements of the complainant and the witnesses, took cognizance of the offences punishable under Sections 34 r/w 109, 120 b, 211 and 221 of I.P.C and issued summons to the accused.

3.The petitioners/accused have filed the present petition to call for the entire records in C.C. No.273 of 2012 pending before the learned Judicial Magistrate No.VI, Salem and quash the proceedings under Section 482 Cr.P.C.

4.Mr.A.Thiyagarajan, the learned counsel for the petitioners contended that the complaint filed by the

respondent does not disclose any offence against the petitioners herein and that the learned Judicial Magistrate is wrong in taking cognizance of the offences punishable under Sections 34 r/w 109, 120 b, 211 and 221 I.P.C.

5. A perusal of the complaint shows that the respondent is aggrieved by the action taken by the second and third petitioners who are the Sub-Inspector of Police, All Women Police Station, Kondalampatti, Salem and the Head Constable 714, All Women Police Station, Kondalampatti, Salem respectively by registering the First Information Report in Crime No.4 of 2010 of All Women Police Station, Kondalampatti, Salem. His specific allegation is that the petitioners 2 and 3, directed the respondent to call his parents to All Women Police Station and detained the complainant and his parents through out the day. It is pertinent to point out that the date of the alleged incident has not been mentioned in the complaint. In the complaint, it is further averred that on 18.05.2010, in a newspaper it was published that "பத்திரிகையில் வரதட்சணை கேட்டு வக்கீல் மீது புகார், வக்கீல் மற்றும் அவரது பெற்றோர் தலைமறைவு, போலீஸ் வலைவிரித்து தேடிவருகிறது" According to the respondent/complainant, petitioners 2 and 3 (herein) had given that publication in the newspaper in order to sabotage his career.

6. The learned counsel appearing for the petitioners contended that based on the complaint given by the wife of the respondent the First Information Report in Crime No.4 of 2010 of All Women Police Station was registered by the Investigation Officer, All Women Police Station, Salem and after investigation a final report in C.C. No. 55 of 2013 was filed before the Judicial Magistrate, Additional Mahila Court, Salem. His specific contention is that after conclusion of the trial in C.C. No.55 of 2013, the respondent was acquitted by the Judicial Magistrate, Additional Mahila Court, Salem on 28.07.2015 giving benefit of doubt to him. His contention is that the present complaint in C.C. No.273 of 2012 has been filed by the respondent with false allegations. He also drew the attention of this Court to Section 195 (b) (i) of Cr.P.C which reads:

"195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence-

(1) No Court shall take cognizance

(a) (i) ....

(b) (i) of any offence punishable under any of the following section of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or....."

A plain reading of Section 195 (b) (i) Cr.P.C clearly shows that no Court can take cognizance of the offences under

Sections 199, 200, 205 to 211 and 228, when such offences alleged to have been committed in relation to any proceedings in any Court. As far as the present case is concerned the petitioners 2 and 3 have registered the First Information Report and a final report was also filed before the Judicial Magistrate, Additional Mahila Court, Salem. Though the respondent herein was acquitted, it cannot be stated that the petitioners 2 and 3 has wantonly registered the First Information Report against him.

7.The learned counsel appearing for the respondent fairly conceded that as far as the 4<sup>th</sup> and 5<sup>th</sup> petitioners are concerned no case is made out. He therefore contended that the petition as against the petitioners 4 and 5 can be dismissed. However, he drew the attention of this Court to pages 2 and 3 of the private complaint instituted by the respondent herein and contended that the petitioners 1 to 3 with an intention to sabotage the career of the respondent had falsely foisted a case against him in Crime No.4 of 2010. Except this bald allegation in his private complaint filed under Section 200 Cr.P.C by the respondent herein, no other allegations are made out against the petitioners 1 to 3. As already observed as per Section 195 (b) (i) Cr.P.C. a Judicial Magistrate is precluded from taking cognizance of the offences punishable under the Sections specified in 195 (b) (i) Cr.P.C.

8.A perusal of the order passed by the learned Judicial Magistrate also shows that no speaking order was passed before taking cognizable of the offence. In fact, the statements of the complainant and the other witnesses were not recorded by the learned Judicial Magistrate No.VI, Salem. On the contrary, the learned Chief Judicial Magistrate had recorded the statements and had simply transferred the entire case to the file of Judicial Magistrate No.VI, Salem. The Judicial Magistrate No.VI, Salem without applying his mind has taken cognizance of the offence and issued summons to the accused who are the petitioners herein. As already observed the complaint does not disclose any offence and in the facts and circumstances of the present case, this Court opines that this is a fit case where the entire proceedings on the file of Judicial Magistrate No.VI, Salem is liable to be quashed.

9.In the result, the petition is allowed and proceedings pending before the leaned Judicial Magistrate No. VI, Salem is quashed. Consequently, connected miscellaneous petitions are also closed. Bail bonds, if any, executed by the petitioners/accused, shall stand cancelled.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar

rkp

To

1.The Judicial Magistrate No.VI,  
Salem.

2.Do-thro The Chief Judicial Magistrate,  
Salame.

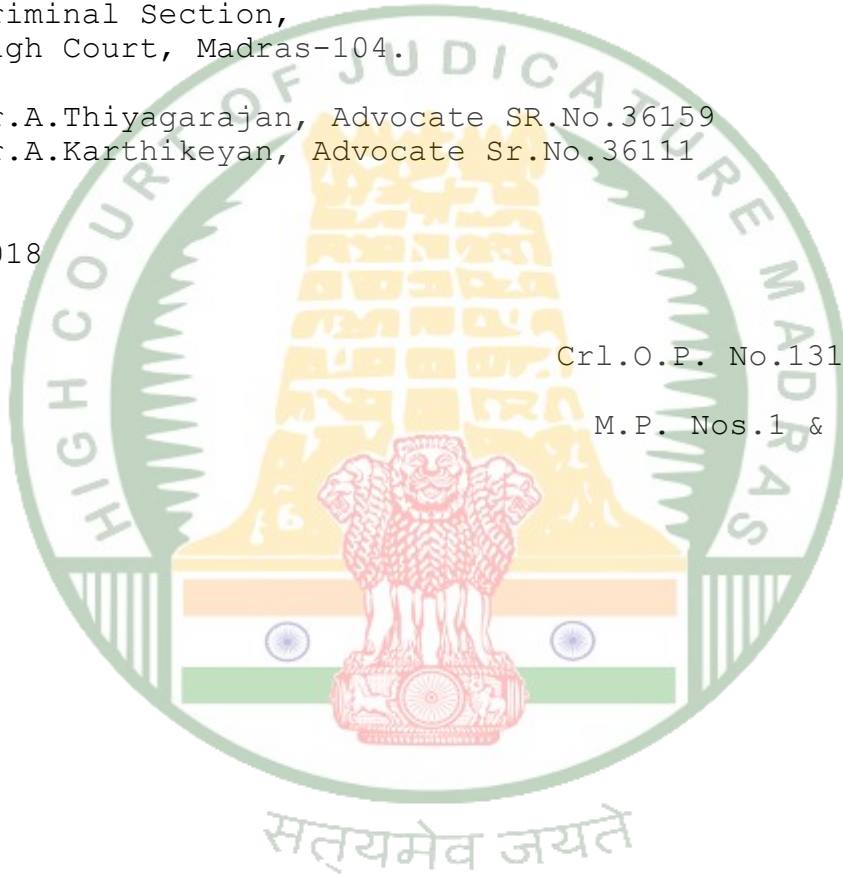
Copy to:The Section Officer,  
Criminal Section,  
High Court, Madras-104.

+1cc to Mr.A.Thiyagarajan, Advocate SR.No.36159

+1cc to Mr.A.Karthikeyan, Advocate Sr.No.36111

KGK(CO)  
sm:21.6.2018

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and  
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