

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.28546 of 2013
and
M.P.No.1 of 2013

1.Balaji
2.Rajasekar

... Petitioners/Accused 1 & 2

Vs

1.Union Territory of Pondicherry
Rep by it's The Sub Inspector of Police,
M-2, Nedungadu Police Station,
Karaikal, Union Territory of Pondicherry.
...Respondent/Complainant
2.Yahoob ... Respondent/Defacto Complainant

Criminal Original Petition filed under Section 482 of
Cr.P.C., praying to call for the entire records in C.C.No.245 of
2011 pending on the file of learned Judicial Magistrate Court
No.II at Karaikal and quash the same.

For Petitioners: Mr.Vimal B.Crimson

For R1 : Mr.D.Bharatha Chakravarthy
Public Prosecutor (Pondicherry)

For R2 : Mr.V.Govardhanan
for M/s.Row and Reddy

O R D E R

The present petition has been filed by the petitioners to
call for the records in C.C.No.245 of 2011 on the file of
learned Judicial Magistrate No.II, Karaikal and to quash the
same.

2.Based on the complaint of the second respondent, FIR has
been registered in Crime No.91 of 2010 of M-2, Nedungadu Police
Station, Karaikal on 28.06.2010 and the petitioners are arrayed
as accused 1 and 2. After completing investigation, the
Inspector of Police filed a final report against petitioners /

accused for the alleged offences punishable under Sections 323, 355, 294 506 (ii) I.P.C. r/w 34 I.P.C. on 26.10.2010. The learned Judicial Magistrate No-II, Karaikal took cognizance of the offences and issued summons to the accused.

3.The contention of the petitioner is that the first and second accused are factory Manager and General Manager respectively of the Spinning Mill and that since the de-facto complainant did not work properly and damaged valuable machineries, the factory Manager and the General Manager questioned them. According to the petitioners, the de-facto complainant in order to escape from the liability has falsely lodged a complaint to the Inspector of Police for the alleged offences punishable under Sections 323, 355, 294 506 (ii) I.P.C. R/w 34 I.P.C.

4.The learned counsel for the petitioners would contend that the accused have not committed any offence and that since the de-facto complainant damaged a machinery, a false complaint has been lodged by him with the Inspector of Police, Nedungadu Police Station, Karaikal and that the first respondent has not conducted the investigation properly.

5.Per contra, the learned Public Prosecutor (Crl. Side), Puducherry would contend that the investigation has been done properly by the Inspector of Police and the allegations levelled by the petitioners are disputed question of facts, which cannot be decided at this stage.

6.A perusal of the final report filed by the Inspector of Police, Nedungadu Police Station, Karaikal in Crime No.91 of 2010 shows that there are prima facie materials available on record to proceed against the petitioners herein for the alleged offences under Sections 323, 355, 294 506 (ii) I.P.C. r/w 34 I.P.C. Merely based on the bald allegations made by the petitioners / accused that the defacto complainant damaged the machineries and in order to escape from liability, he had filed a false complaint, the entire proceedings pending before the learned Judicial Magistrate No-II, Karaikal, Pondicherry cannot be quashed especially when the above contentions are disputed question of facts.

7.In the facts and circumstances of the present petition, I do not find any reason to quash the proceedings pending before the learned Judicial Magistrate No.II, Karaikal. Since the matter is pending from the year 2012, the petitioners / accused are directed to appear before the learned Judicial Magistrate No.II, Karaikal and the learned Judicial Magistrate No.II, Karaikal is directed to dispose of the case within a period of six months from the date of receipt of a copy of this order.

8.With the above discussions, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ia

To

- 1.The Judicial Magistrate No.II,
Karaikal
- 2.The Sub Inspector of Police,
M-2, Nedungadu Police Station,
Karaikal, Union Territory of Pondicherry.

+1cc to M/S.Row & Reddy, Advocate Sr.40508
+1cc to the Government Pleader Sr.40525

Cr1.O.P.No.28546 of 2013

ca[co]
srg 24/07/2018

सत्यमेव जयते

WEB COPY