

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2018

Coram:

The Honourable Mrs. Justice R. HEMALATHA

CrI.O.P.No.18583 of 2013

and

M.P.No.1 & 2 of 2013

1.M.Palanichamy
2.Vijayakumar
3.Sengottaiyan
4.Thangamuthu
5.Mahadevi
6.Samiyathal
7.Ambika
8.Kathirvel
9.C.Prakash
10.P.Shanmugam

...Petitioners/Accused

Versus

Arumugam

...Respondent

This Criminal Original Petition is filed under Section 482 of Cr.P.C praying to call for the records pertaining to the Criminal Proceedings in C.C.No.77 of 2011 on the file of the District Munsif - cum - Judicial Magistrate Court, Kodumudi, District and quash the same.

For Petitioners : P.Kannan Kumar

For Respondent : Mr.M.Guruprasad

ORDER

The petitioners herein are the accused in C.C.No.77 of 2011 before the District Munsif-cum-Judicial Magistrate Court, Kodumudi, Erode District.

2. The respondent/complainant filed a private complaint under Section 200 Cr.P.C against the petitioners for the alleged offences punishable under Sections 147, 148, 341, 294-B, 323, 341 and 506(II) IPC. The learned Judicial Magistrate, Kodumudi, Erode District took cognizance of the offence and issued summons to the accused after examining the complainant and the witnesses. The case of the respondent/complainant is that on

15.12.2009, when the complainant was stocking neem sticks in his land, A1 & A2 abused him in filthy language and A3 threatened him that he would kill him and also beat him with a wooden log along with A4. According to him, all the accused assaulted him and thus committed the offences under Sections 147, 148, 341, 294-B, 323, 341 and 506(II) of I.P.C.

3. The present Criminal Original Petition has been filed by the petitioners herein under Section 482 of Cr.P.C praying to call for the records in C.C.No.77 of 2011 on the file of the District Munsif-cum-Judicial Magistrate Court, Kodumudi, District and quash the same on the following grounds:

1. The petitioners are no way connected with the alleged occurrence and that the private complaint filed by the respondent/ complainant is an abuse of process of law.
2. Since the issue involved in the private complaint is purely civil in nature, the act of the District Munsif-cum-Judicial Magistrate, Kodumudi in taking cognizance of the alleged offences under Sections 147, 148, 341, 294-B, 323, 341 and 506(II) IPC is wrong.
3. Since the respondent/complainant had already lodged a complaint dated 15.12.2009, with the Inspector of Police, Kodumudi Police Station and the same was registered as FIR in Crime No.346 of 2009 and a referred charge sheet was also filed by the Inspector of Police, the respondent/complainant cannot once again file a private complaint under Section 200 of Cr.P.C

4. Per Contra, Mr.M.Guruprasad, the learned counsel appearing for the respondent/complainant would submit that the Inspector of Police, without conducting proper investigation, has laid a final report in Crime No.347 of 2009 of Kodumudi Police Station treating the complaint dated 15.12.2009, preferred by him as mistake of fact, which forced him to file a private complaint under Section 200 Cr.P.C before the District Munsif-cum-Judicial Magistrate, Kodumudi. He would further contend that on the complaint preferred by the petitioners, the Inspector of Police registered the FIR in Crime No.346 of 2009 and laid a final report against the respondent/complainant and the same is pending in C.C.No.9 of 2012 on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi.

5. A perusal of the private complaint shows that there are prime facie materials available on record to proceed against the present petitioners. Merely because the Inspector of Police, after conducting investigation, laid a referred charge sheet before the District Munsif-cum-Judicial Magistrate, the respondent/complainant would not be precluded from filing a private complaint under Section 200 Cr.P.C.

6. In the facts and circumstances of the present case, I hold that this is not a fit case for quashing the entire proceedings in C.C.No.77 of 2011 on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi.

7. At this juncture, the learned counsel appearing for the petitioners would contend that the petitioners are agriculturalists and it would be difficult for them to appear before the District Munsif-cum-Judicial Magistrate on all the hearings and therefore, prayed for dispensing with their personal appearance before the District Munsif-cum-Judicial Magistrate. Considering his request, the personal appearance of the petitioners is dispensed with. However, they should appear before the District Munsif-cum-Judicial Magistrate whenever their presence is required.

8. In the result, this Criminal Original Petition is dismissed. However, the District Munsif-cum-Judicial Magistrate is directed to dispose of C.C.No.9 of 2012 and C.C.No.77 of 2011 simultaneously and dispose both the cases within a period of six months from the date of receipt of a copy of this order uninfluenced by any of the observations made by this Court. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

mrr

To

1.District Munsif-cum-Judicial Magistrate,
District Munsif-cum-Judicial Magistrate Court,
Kodumudi,
Kodumudi District.

2.The Public Prosecutor,
High Court,
Madras.

+1 CC to Mr.M. Guruprasad, Advocate sr 43423.

+1 CC to Mr.P. Kannan Kumar, Advocate sr 43758.

Cr1.O.P.No.18583 of 2013

SP(26/07/2018)