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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.03.2018

Delivered on : 20.03.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P. (MD) No.18714 of 2013

and

M.P. (MD) No.1 of 2013

1.V.K.Gurusamy
2.A.M.Nallusamy
3.P.Kaliswaran
4.R.Alax
5.K.Chinnakannayiram
A5

... Petitioners/A1 to

Vs.

The State Rep. by
The Inspector of Police,
Theppakulam Police Station,
Madurai City.
(Crime No.1147/2011)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to S.C.No.197 of 2013, now pending on the file of the Chief Judicial Magistrate Court, Madurai and quash the same.

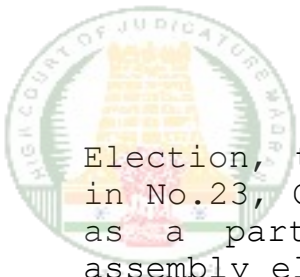
For Petitioners : Mr.N.R.Elango
Senior Counsel
for Ms.S.Devasena

For Respondent : Mr.A.Robinson
Government Advocate
(Criminal side)

ORDER

The petitioners herein are arrayed as A1 to A5 in S.C.No.197 of 2013 on the file of the Chief Judicial Magistrate Court, Madurai. The present petition has been preferred by the petitioners under Section 482 Cr.P.C., seeking to quash the abovesaid case as illegal.

2.The case of the prosecution is that the de-facto complainant Mayil Murugan was the representative of 54th Ward on behalf of AIADMK Party. The first petitioner herein is belonged to DMK Party. <https://hservices.pcoorts.gov.in/hservices/> previously, he was holding the post of Chairman of Madurai Municipal Corporation, East Zone. In the year 2011, during the Assembly



Election, the de-facto complainant was running a real estate office in No.23, CMR Road. Further, he allowed the said Office to function as a party Office for Communist Party, particularly, for the assembly election. On 06.04.2011, at 17.00 hours, when the de-facto complainant was in his Office, the present petitioners came there with deadly weapons in a Tata Safari vehicle bearing Registration No.TN-59-5657 and the first petitioner abused the de-facto complainant and made a life threat and the other petitioners assaulted him by using Aruval. Fortunately, the de-facto complainant did not sustain any injury. After seeing the occurrence, the witnesses in and around the scene of occurrence, shouted as 'don't beat him'. Hence, the petitioners threatened the de-facto complainant and the witnesses with dire consequences. Thereafter, the de-facto complainant has lodged a complaint before the respondent police on 31.07.2011. After receiving the complaint from the de-facto complainant, the respondent police registered a case in Crime No.1147 of 2011 for the offences punishable under Sections 147, 148, 452, 341, 323, 307 and 506(ii) IPC. Thereafter, the injured persons were getting treatment from Jawahar Hospital on 01.08.2011. Subsequent to that, after completion of investigation, the respondent police filed a charge sheet before the Judicial Magistrate Court No.I, Madurai, and the same was taken on file as P.R.C.No.24 of 2012. After completion of committal proceedings, the case has been transferred to the District and Sessions Judge, Madurai. After receiving the committal orders, the learned District and Sessions Judge, Madurai, take the case on file in S.C.No.197 of 2013 and assigned the same to the learned Chief Judicial Magistrate, Madurai, for further proceedings. Now, the petitioners have filed this petition to quash the said case pending against them.

3.The learned Senior Counsel appearing for the petitioners submitted that as per the Wound Certificate issued to the de-facto complainant, he sustained the following injuries at the time of giving treatment by the Doctor attached with the Jawahar Hospital:

- 1.Contusion on right shoulder
- 2.Contusion in upper shoulder
- 3.Pain in the right chest
- 4.Pain in the nail
- 5.Abrasion in the right shoulder in 2 x 0.5 c.m.

4.So, according to the nature of injuries, it could be estimated that the de-facto complainant sustained only simple injuries. He further added as after completion of four months from the date of occurrence, the abovesaid injuries are found in the body of the de-facto complainant, which is nothing but abuse of process of law. No one is prevented the de-facto complainant from immediately lodging a complaint before the respondent police. Non-



lodging of complaint immediately by the de-facto complainant, clearly shows that the alleged complaint lodged by the de-facto complainant is only for political enmity.

5. In support of his submissions, the learned Senior Counsel relied on a judgment of the Hon'ble Supreme Court in Vineet Kumar and others Vs. State of Uttar Pradesh and another reported in 2017 (13) SCC 369, wherein in Paragraphs 23 and 24, it has been held as follows:

'23. This Court time and again has examined scope of jurisdiction of the High Court under Section 482 Cr.P.C. and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 Cr.P.C. A three-Judge Bench of this Court in State of Karnataka vs. L. Muniswamy and others, 1977 (2) SCC 699, held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In paragraph 7 of the judgment, the following has been stated:

'7. In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice,



between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.''

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24. The judgment of this Court in *State of Haryana and others vs. Bhajan Lal and others*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426, has elaborately considered the scope and ambit of Section 482 Cr.P.C. Although in the above case this Court was considering the power of the High Court to quash the entire criminal proceeding including the FIR, the case arose out of an FIR registered under Sections 161, 165 IPC and Section 5(2) of the Prevention of Corruption Act, 1947. This Court elaborately considered the scope of Section 482 Cr.P.C./ Article 226 in the context of quashing the proceedings in criminal investigation. After noticing various earlier pronouncements of this Court, this Court enumerated certain Categories of cases by way of illustration where power under 482 Cr.P.C. can be exercised to prevent abuse of the process of the Court or secure ends of justice.''

6. Now, applying the principles laid down by the Hon'ble Supreme Court in the above said decision to the case on hand, in this case also, it has to be noted that the alleged occurrence was happened on 06.04.2011. Thereafter, the complaint has been lodged before the respondent police on 31.07.2011. The next day to the lodging of the complaint, the de-facto complainant was referred to the hospital for medical treatment. In this occasion, it is to be noted that it is not at all possible that the alleged injuries found by the de-facto complainant as mentioned above, could not be present for the assault committed on 06.04.2011. Therefore, this Court comes to a conclusion that the complaint lodged by the de-facto complainant is only with a view to harass the petitioners due to political motive. Even after knowing the entire things, the respondent police laid a charge sheet, in which, he alleged the allegation leveled by the de-facto complainant in the complaint as true. So, filing of the charge sheet in this case by the respondent police is nothing but abuse of process of law. Accordingly, this is the time for this Court to prevent the same by using the powers vested with this Court under Section 482 Cr.P.C.

7. In the judgment referred to above, the Hon'ble Supreme Court at Paragraph No.25, has held as follows:

<https://hcservices.ecourts.gov.in/hcservices/>25. Para 102 which enumerates 7 categories of cases where power can be exercised under Section 482 Cr.P.C. is extracted as follows:



(State of Haryana Vs. Bhajan Lal reported in 1992 SCC (Cri) 426).

.....

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.''

8. So, in this case also, only due to the personal grudge, the complaint has been lodged against the petitioners. Hence, this Court has no hesitation to quash the entire charges pending against the petitioners in S.C.No.197 of 2013 on the file of the Chief Judicial Magistrate Court, Madurai. Accordingly, the proceedings in S.C.No.197 of 2013 pending against the petitioners on the file of the Chief Judicial Magistrate Court, Madurai, shall stand quashed and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Madurai.
2. The Inspector of Police,
Theppakulam Police Station,
Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.S.DEVASENA, ADVOCATE, SR NO.56309

Order in
Cr1.O.P. (MD) No.18714 of 2013
20.03.2018

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