



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P. (MD) No.3401 of 2011
and
M.P. (MD) No.1 of 2011

1. Senthilkumar,
Manager,
Fenner Conveyer Belting Division Private Limited,
Nagari, Vadipatti Taluk, Sholavandhan,
Madurai.
2. Mohanram,
Vice-President & Director,
Fenner Conveyer Belting Division Private Limited,
Nagari, Vadipatti Taluk, Sholavandhan,
Madurai. ... Petitioners/Accused

Vs.

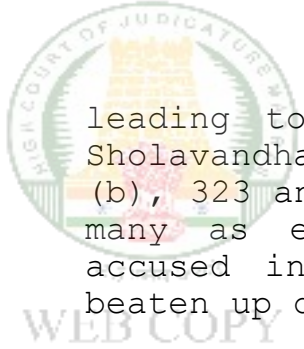
1. Rajasekaran ... 1st Respondent/Complainant
2. The Deputy Superintendent of Police,
Samayanallur,
Madurai District.
(R-2 is suo motu impleaded vide
order dated 18.07.2018
in Crl.O.P. (MD) No.3401 of 2011) ... 2nd Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.1 of 2011 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti and quash the same.

For Petitioners : Mr.Arunachalam @ Arun
For R-1 : Mr.T.Lajapathy Roy
For R-2 : Mr.A.Robinson,
Government Advocate(Crl. Side).

ORDER

The petitioners were officials working in Fenner Conveyer Belting Division Private Limited, Nagari, Vadipatti Taluk, Sholavandhan, Madurai. It appears that there was a dispute in the factory premises in February 2010. There was a minor scuffle



leading to registration of Crime No.49 of 2010 on the file of Sholavandhan police station for the offences under Sections 147, 294 (b), 323 and 506(i) of I.P.C. The final report was filed against as many as eight accused. Thiru.Rajasekaran figured as the first accused in the said case. One Ramesh and Shanmughanathan were beaten up during the occurrence.

2. Following the registration of Crime No.49 of 2010, Crime No.50 of 2010 came to be registered at the instance of Thiru.Rajasekaran against the petitioners herein. The said case was closed as "Mistake of Fact". In fact the closure report was filed, after getting concurrence from the concerned committee. The first respondent was the defacto complainant therein who was given due notice. After endorsing that the said closure report can be accepted, the first respondent filed an independent private complaint. The same was taken on file in P.R.C.No.1 of 2011 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti.

3. Heard the learned counsel on either side.

4. As rightly contended by the learned counsel for the petitioners, the offence under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes(Prevention of Atrocities) Act, 1989, would be attracted only, if the accused intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. In the present case, the alleged occurrence had taken place in the chambers of the second petitioner herein. In fact in the private complaint, there is no averment that the offence took place in public view. Absence of this fundamental ingredient is fatal to the complaint.

5. That apart as rightly contended by the learned counsel for the petitioners, the present complaint appears to be a clear counter blast to Crime No.49 of 2010. On reading the entire materials on record, this Court has no hesitation to come to the conclusion that the impugned prosecution has been triggered only to wreck vengeance on the petitioners herein who had dared to lodge the complaint against the union leaders. It is also seen that the complainant and others have been functioning as union leaders for a very long time. Therefore, this Court refuses to believe that the Company officials would have insulted the complainant by referring to caste or community. Looked at from any angle, the impugned proceedings amount to clear abuse of legal process. Therefore, sustaining all the contentions raised by the petitioners' counsel, the proceedings in P.R.C.No.1 of 2011 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti, stand quashed and the Criminal Original petition stands allowed.

6. Though the scope of the present Criminal Original petition is only concerning P.R.C.No.1 of 2011 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti, this Court is of



the view that a quietus can be given to all the outstanding issues. This Court had already held that the present prosecution is only a counter blast to Crime No.49 of 2010.

7. In the said case, the Deputy Superintendent of Police, Samayanallur, Madurai, has filed final report. Therefore, the Deputy Superintendent of Police, Samayanallur, Madurai, is suo motu impleaded as a party to the proceedings. Mr.A.Robinson, learned Government Advocate(Crl. Side) takes notice for the said respondent.

8. This Court went through the final report filed in the said case. It is seen that it was a case of minor assault.

9. The learned counsel for the accused, Mr.T.Lajapathy Roy conveys through this Court to the victims the unconditional apology and regret from all the accused. The said statement made by the learned counsel on behalf of the accused is placed on record. The said case in Crime No.49 of 2010 was taken on file in C.C.No.116 of 2010 on the file of the learned Judicial Magistrate, Vadipatti. More than eight years have gone by. It is also seen that the accused had also retired from the Company. Therefore, no purpose will be served in keeping the prosecution alive. Even though this Court holds that the offence was actually committed, still in the interest of justice the proceedings in C.C.No.116 of 2010 can be quashed, in view of the regret and apology tendered by the accused through their counsel. Accordingly, the proceedings in C.C.No.116 of 2010 on the file of the learned Judicial Magistrate, Vadipatti, stand quashed. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-II)

To

1. The District Munsif cum Judicial Magistrate,
Vadipatti.
2. The Deputy Superintendent of Police,
Samayanallur, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P.(MD)No.3401 of 2011 and
M.P.(MD)No.1 of 2011
18.07.2018

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