

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.15102 of 2011 and
M.P.No.1 of 2011

1. Johnson
2. Udhya Prakash
3. Arulraj
4. Stephen
5. Williams

.... Petitioners

Vs.

1. The state represented by
The Sub-Inspector of Police,
B-1, North Beach Police Station,
Chennai - 600 001.
(Crime No.506/2010)

2. C.Ismail

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.1263 of 2011 pending on the file of the learned VII Metropolitan Magistrate, George Town, Chennai-1, and quash the same.

For Petitioners :Mr.R.Ganesh Kumar

For Respondents :Mr.R.Surya Prakash
Govt. Advocate (Crl.Side) for R1
No Appearance for R2

ORDER

The first respondent police has registered a case against the petitioners based on the complaint lodged by the second respondent in Crime No.506 of 2010 for the offence punishable under Sections 147, 148, 427 & 506(ii) IPC and after investigation laid a charge sheet before the learned VII Metropolitan Magistrate, George Town, Chennai-1, which was taken on file in C.C.No.1263 of 2011. Pending the above calendar case, the petitioners have filed this present petition seeking to quash the proceedings in C.C.No.1263 of 2011.

2 According to learned counsel appearing for the petitioners, in the statement recorded under Section 161 of Cr.P.C., except the words stated by the defacto complainant that the accused threatened them, no other incriminating materials placed by the prosecution against these petitioners. Mere uttering the words would not constitute the offence charged against the petitioners. Therefore, the petitioners, need not face the ordeal of trial and hence the learned counsel seeks quashing of the proceedings in the calender case.

3 The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that investigation reveals that more than five persons involved in this case and also threatened the defacto complainant and also caused damages to the name board of the shop runs by the defacto complainant. Therefore present case was registered against the petitioners and the investigation reveals that there is prima facie case to prosecute the petitioners and because of the stay granted by this Court, the calender case is pending for trial and there is no ground to invoke Section 482 of Cr.P.C.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 It is seen that the case is pending before the trial Court without even framing charges, since this Court has granted stay. On reading of the FIR registered by the first respondent police against the petitioners, the charge sheet filed under Section 173 of Cr.P.C. and also statement recorded under Section 161 of Cr.P.C. from the prosecution witnesses during the investigation, it reveal that there is prima facie allegations made against these petitioners and whether the statements of prosecution witnesses will constitute the offence charged against the petitioners or not is a matter for trial and this Court finds no reason to exercise power under Section 482 of Cr.P.C.

6 In the result, the criminal original petition stands dismissed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The VII Metropolitan Magistrate,
George Town, Chennai-1.

2. The Public Prosecutor, High Court of Madras.

3. The Sub-Inspector of Police,
B-1, North Beach Police Station,
Chennai - 600 001.

+1cc to Mr.R.Ganeshkumar, Advocate Sr.79730

Crl.O.P.No.15102 of 2011

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srg 18/10/2019



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