



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

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THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.4158 of 2015
and Crl.M.P.No.1 of 2015

1.C.Radhakrishnan
2.B.Kannan
3.G.Ganesan

... Petitioners/Accused 1 to 3

Vs.

1.State represented by
The Assistant Commissioner of Police,
Thirumangalam Range,
Chennai.

2.T.Varadharajan ... Respondents/Complainant/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to P.R.C.No.21 of 2014, pending on the file of Judicial Magistrate, Ambattur, and quash the same.

For Petitioner : M/s.A.Suresh Sakthi Murugan

For Respondent : Mr.C.Raghavan
Government Advocate for R1

O R D E R

This petition has been filed seeking to quash the proceedings in P.R.C.No.21 of 2014, pending on the file of Judicial Magistrate, Ambattur.

2. Based on the complaint given by the second respondent, an FIR came to be registered in Crime No.1988 of 2012 for an offence under Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989 and Section 506(i) of IPC. The investigation was taken up by the first respondent and the final report has been filed before the Court below as against all the three petitioners. The Court below has taken cognizance of the final report for an offence under Section 506(i) of IPC as against A1 and A3 and for an offence under Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989 and Section 506(i) of IPC.,



as against A2.

3. The case of the prosecution is that the defacto complainant had gone to help one Rajaram, in order to shift his house. On 29.09.2012 at about 09.30 p.m., the accused persons are said to have come to the flat and abused the defacto complainant with his caste name and also threatened him with dire consequences. Initially, the FIR was registered for an offence under Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989 and Section 506(i) of IPC, as against all the accused persons. However, during the course of investigation, the respondent police came to know that the first and third petitioners also belong to the Scheduled Caste community and therefore charges were dropped against A1 and A3 for the offence under Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989.

4. The learned counsel for the petitioner submitted that the entire case is an abuse of process of Court and the defacto complainant has misused the provisions of the SC/ST Act. The learned counsel brought to the notice of this Court the 164 Cr.P.C. statement that was recorded from one Chellappa, who had accompanied the second respondent and was present at the time of the alleged occurrence. This witness has categorically stated that none of the accused persons had called the second respondent with his caste name and they had merely told him not to make noise and disturb the other residents.

5. The learned counsel for the petitioner submitted that earlier Rajaram, in whose flat, the defacto complainant was present helping in shifting the house, had filed a defamation complaint against the petitioners herein and the complaint itself came to be quashed by this Court, by an order made in CrI.O.P.No.16862 of 2014. The learned counsel submitted that the said Rajaram had used the defacto complainant to foist one more case against the petitioners. The learned counsel therefore submitted that no offence has been made out against the petitioners and the entire proceedings are liable to be quashed by this Court.

6. The learned Government Advocate appearing on behalf of the respondent police submitted that the respondent police realised the fact that the first and third petitioners also belong to the Schedule Caste community and therefore, dropped the charges against them for an offence under Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989 and proceeded against them only for the offence under Section 506(i) of IPC. The learned counsel further submitted that the defence raised by the petitioners can only be considered in the course of the proceedings before the Court below and there is no ground to interfere with the same.



7. This Court has carefully considered the submissions made on either side and perused the materials available on record.

8. This is yet another classical case where the provisions of the 3(1) (X) SC/ST Prevention of Atrocities Act, 1989 and Section 506(i) of IPC has been misused by the defacto complainant. The defacto complainant never realised that the first and third petitioners also belonged to the Scheduled Caste community, when he gave the complaint with false allegations and ultimately the respondent police in the course of investigation found that the first and third petitioners also belonged to the same community and therefore no charges can be framed against them for an offence under Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989. The statement recorded under Section 164 of Cr.P.C from one Chellappa, who was present in the scene of occurrence, also shows that there was not even a threat that was exerted against the second respondent. The second respondent was only requested not to make too much of noise, since it will cause disturbance to the other residents.

9. Even, if the allegations made by the second respondent is taken as it is, it does not satisfy the requirements of Section 3(1) (X) SC/ST Prevention of Atrocities Act, 1989 since admittedly, utterance made by the petitioners was not done in a public place or in the presence of any other person. There is also no material to satisfy the ingredients of the Criminal intimidation, since utterance itself is not enough and there should be something more than that by way of action, in order to satisfy the requirements of criminal intimidation. The law on this aspect is well settled. This Court finds that there are absolutely no materials to proceed further against the petitioners and the entire proceedings is an abuse of process of Court and a malicious prosecution on the part of the second respondent. This Court has no hesitation to interfere with the proceedings pending before the Court below.

10. In the result, the proceedings in P.R.C.No.21 of 2014, pending on the file of Judicial Magistrate, Ambattur, is hereby quashed and accordingly this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar



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To

1. The Judicial Magistrate, Ambattur.

2. The Assistant Commissioner of Police,
Thirumangalam Range,
Chennai.

3. The Public Prosecutor
High Court, Madras.

+4 CC to Mr.A. Suresh Sakthi Murugan, Advocate sr 64886.

Cr1.O.P.No.4158 of 2015

NRJK (CO)
SP (28/08/2019)