

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No.24686 of 2016
and CRL.M.P.No.11874 of 2016

Perumal ... Petitioner / 1st Accused

Vs.

1. State by Inspector of Police,
Namakkal Police Station,
Namakkal.
Crime No.725 of 2015. Respondent / Complainant

2. C.Chinnadurai ... Respondent/De-facto Complainant

Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in P.R.C.No.1 of 2016 on the file of the Judicial Magistrate No.1, Namakkal and quash the same.

For Petitioner : Mr.J.Ravi Shankar
For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.
For R2 : Mr.B.Vasudevan

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.1 of 2016 on the file of the Judicial Magistrate No.1, Namakkal.

2. The learned counsel for the petitioner would submit that the offence under Section 352 of IPC as well as Section 3(1) (x) of SC/ST (Prevention of Atrocities) Act 1989 is not at all attract as against the petitioner, since the entire dispute is civil in nature.

3. The learned counsel for the petitioner would further submit that the place of occurrence is very essential to attract the offence under Section 3(1) (x) of SC/ST (Prevention of Atrocities) Act 1989. In the present case, the place of occurrence mentioned in the CSR is differs from the FIR, thereby, it does not attract the said offence.

4. The learned counsel for the petitioner would also submit that an another false complaint has been lodged as against the petitioner in Crime No.89 of 2016, in which, a detailed enquiry has been conducted by the District Collector and he has found that the entire allegation is false. In fact, on the basis of the second FIR, the petitioner bail was cancelled and subsequently, this Court, by order dated 12.09.2016, dismissed the cancellation of bail petition filed by de-facto complainant. Therefore, it is completely false complaint as against the petitioner and son, in which, the petitioner arrayed as first accused. Therefore, he prays for quashing the entire proceedings in P.R.C.No.1 of 2016 pending on the file of the Judicial Magistrate No.1, Namakkal.

5. The learned counsel for the second respondent would submit that on the date of occurrence, the petitioner scolded the de-facto complainant with filthy language and abused him along with his son. Therefore, there are specific allegations and averments as against the petitioner to attract the offence under Section 352 of IPC as well as Section 3(1) (x) of SC/ST (Prevention of Atrocities) Act 1989.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

7. There are totally two accused and the petitioner is the 1st accused. The allegation is that the petitioner and his son abused the de-facto complainant community and threatened with dire consequences. The point raised by the petitioner is that the place of occurrence is differs from CSR as well as the FIR. It is seen from the statement recorded under Section 161(3) Cr.P.C that the place of occurrence is at Geethanjali finance. It is also seen from the statement that there are evidence to attract the offence under Section 352 of IPC and Section 3(1) (x) of SC/ST (Prevention of Atrocities) Act 1989 as against the petitioner. Therefore, this Court is not inclined to quash the proceedings in P.R.C.No.1 of 2016 on the file of the Judicial Magistrate No.1, Namakkal. All the points raised by the petitioner will be considered only during the trial.

8. However, considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after

filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

9. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

raja/at
To

1.The Judicial Magistrate No.I, Namakkal.

2.The Inspector of Police,
Namakkal Police Station,
Namakkal.
(Crime No.725 of 2015)

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Ravi Shankar , Advocate SR.No. 16678

+1cc to Mr. B.Vasudevan, Advocate SR.No. 19790

CRL.O.P.No.24686 of 2016

and

CRL.M.P.No.11874 of 2016

A.SK(05/04/2019)

सत्यमेव जयते

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