

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 10021 of 2014
and
M.P.No.1 of 2014

F.W.H.Senguttuvan

... Petitioner

Vs

1. State, represented by:
The Inspector of Police
T-9, Pattabiram Police Station,
Chennai - 600 072,
Crime No.1140 of 2012.

2. E.Kannan

... Respondents

Prayer:

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.349 of 2012 on the file of Judicial Magistrate No.II, Tiruvallur and quash the same.

For Petitioner : M/s.J.I.Rajkumar Roberts

For Respondent-1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent-2 : No Appearance

O R D E R

This Criminal Original Petition has been filed by the petitioner seeking to quash the proceedings in C.C.No.349 of 2012 pending on the file of the learned Judicial Magistrate No.II, Tiruvallur.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the first respondent.

3. The first respondent police has registered a case in Crime No.349 of 2012 as against the petitioner for the alleged offences under Sections 294(b) and 506(ii) IPC and the same has been taken cognizance on file by the learned Judicial Magistrate No.II, Tiruvallur in C.C.No.349 of 2012.

4. The case of the prosecution is that the petitioner herein has filed a suit in O.S.No.67 of 2012 against one D.Elumalai before the learned Principal District Munsif, Poonamallee and the same is still pending. The 2nd respondent herein, who himself an advocate practising before the learned Judicial Magistrate, Poonamallee, used to give legal advice and other legal help regarding the said civil case to the said Elumalai, he being the friend of defacto complainant. Further, allegations in the complaint is that since the said Elumalai is in the position of winning the case, the petitioner got annoyed over the defacto complainant, and due to the same, on 03.09.2012 at 07.30 am when the defacto complainant was standing near the house of one Thiru.Mahendran, the petitioner herein went over there, abused the defacto complainant in unparliamentary language and threatened the defacto complainant that, if he further helps the said Elumalai he would stab the defacto complainant in the open bazaar and murder him.

5. The petitioner had filed a civil suit against one D.Elumalai in O.S.No.67 of 2012 on 02.03.2012 and obtained an ad-interim injunction against him in I.A.No.237 of 2012 on the file of the learned District Munsif, Poonamallee by an order dated 05.03.2012. Subsequently, the order of ad-interim injunction was extended giving time to the said Elumalai to file his counter. Ultimately, the said Elumalai filed a petition to vacate the ad-interim injunction on 26.04.2012, granted to the petitioner herein on 05.03.2012. Thereafter, the petition for injunction in I.A.No.237 of 2012, came up for final hearing on 05.09.2012, and after a thorough hearing, the learned District Munsif, Poonamallee, granted temporary injunction pending disposal of the suit in O.S.No.67 of 2012.

6. The petitioner understands that the defacto complainant is a friend of the said Elumalai. The petitioner submits that, he having obtained an ad-interim injunction against the said Elumalai on 05.03.2012, the defacto complainant being the friend of said Elumalai, was visibly upset and coming to know that the hearing of the injunction petition in I.A.No.237 of 2012 in O.S.No.67 of 2012, on the file of the District Munsif, Poonamallee, is posted on 05.09.2012, the defacto complainant, wanted to pressurise the petitioner herein to withdraw the suit filed against his friend Elumalai gave a false complaint against the petitioner on 03.09.2012, itself, expecting the petitioner

would fear the consequences of the police complaint and withdraw the suit filed by him, against the said Elumalai. But, the petitioner on 05.09.2012 perused his arguments before the District Munsif, Poonamallee in I.A.No.237/2012 in O.S.No.67 of 2012 in the final hearing of the injunction petition, through his counsel and succeeded in getting temporary injunction, till the disposal of the suit in O.S.No.67 of 2012.

7. It is seen that the entire charges are very simple and trivial in nature. Therefore, it is nothing but clear abuse of process of law. Therefore, all the charges cannot be sustained as against the petitioner.

8. In view of the above discussion, the Criminal Original Petition is allowed and the proceedings in C.C.No.349 of 2012 is quashed, pending on the file of the learned Judicial Magistrate No.II, Tiruvallur. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Judicial Magistrate No.II,
Tiruvallur.
2. The Public Prosecutor,
High Court, Madras.
3. The Inspector of Police,
T-9, Pattabiram Police Station,
Chennai-72

+2cc to M/s.J.I.Rajkumar Roberts, Advocate, S.R.No.33207

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SSI (CO)
CS/04/06/2019