

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. No.13167 of 2017 and
Crl.M.P.Nos.8561 & 8562 of 2017

1.Murugaprakash
2.Shankar alias Udhaya Shankar
... Petitioners/Accused

Vs.

1.The Sub-Inspector of Police,
Annathanapatti Police Station,
Salem.
2.Soundararajan ... Respondents/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.praying to call for the records and Quash the charge sheet in CC No.52 of 2017 on the file of Judicial Magistrate (IV) at Salem.

For Petitioners: Mr.V.K.Sathyamurthy,
for Mr.C.Girish Babu

For RR1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

For RR2 : No Appearance

ORDER

This Criminal Original Petition has been filed to call for the records and Quash the charge sheet in CC No.52 of 2017 on the file of Judicial Magistrate (IV) at Salem.

2. The learned counsel for the petitioners submitted that there are two accused and the petitioners are arrayed as A1 and A2. He submitted that on the very same date of occurrence namely, 13.11.2016 there was a counter case filed by the second petitioner's mother and the same has been registered in Crime No.509 of 2016 for the offence under Sections 342, 506 (ii) I.P.C. as against

the second respondent defacto complainant. Without following the police standing order as per 588 (a) the first respondent investigated the matter and filed charge sheet only on the complaint lodged by the second respondent herein. Further he would submit that the charges for the offences under Section 294(b) 566(ii) I.P.C. are not at all attracted as against the petitioners since there is no materials to connect the petitioners. Further he submitted that the second petitioner is a law student and the dispute is between landlord and tenant i.e. the second respondent and the petitioners. Further he submitted that the second respondent filed false case only to escape from the clutches of law, in respect of returning the advance amount of Rs.2 lakhs to the petitioners. Therefore he prayed for quashment of the entire proceedings in CC No.52 of 2017.

3. Per contra, the learned Additional Public Prosecutor submitted that admittedly on the very same date of occurrence, there was a counter complaint lodged by the second petitioner's mother for the offence under Section 342, 506 (ii) I.P.C. Subsequently, for the very same occurrence, the second respondent lodged a complaint and the same was registered in Crime No.510 of 2016 for the offence under Section 294(b), 506(ii) I.P.C. They followed the police standing orders 588(a) and the complaint lodged by the second petitioner's mother was closed as mistake of fact and filed final report in Crime No.509 of 2016. Therefore, he prayed for dismissal of this quash petition.

4. Heard, the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent. Though the second respondent was served notice, none appeared on behalf of him.

5. There are two accused in which the petitioners are arrayed as A1 and A2. Admittedly, there is a landlord tenant dispute between the second respondent and the petitioners. On the date of alleged occurrence there was a counter case filed by the mother of the second petitioner herein. Though the learned Additional Public Prosecutor submitted that it was closed as mistake of fact there is no evidence to show that the complaint lodged by the mother of the second petitioner in Crime No.509 of 2016 registered for the offences under Sections 342, 506 (ii) I.P.C. closed as mistake of fact. Further

it is seen from the allegations that on the date of occurrence, the petitioners threatened the defacto complainant when the defacto complainant demanded for arrears of rent and they also scolded with filthy languages. It is also seen that the petitioners vacated the premises on the said date itself and handed over the key to the defacto complainant. Thereafter they asked for return of advance amount for which the defacto complainant kidnapped the petitioners and as such the mother of the second petitioner lodged complaint as against the second respondent. Therefore, the charges for the offences under Sections 294(b), 506(ii) I.P.C are not at all made out as against the petitioners, since there is no clinching evidence to prove the charge as against the petitioners. It is nothing but clear abuse of process of law. Therefore, the charges cannot be sustained as against the petitioners.

6. Considering the facts and circumstances of the case, this Criminal Criminal Original Petition is allowed and the proceedings in CC No.52 of 2017 on the file of Judicial Magistrate (IV) at Salem is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

pds/lok
To

1.The Sub-Inspector of Police,
Annathanapatti Police Station,
Salem.

2.The Judicial Magistrate (IV) at Salem.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.C.Girish Babu,Advocate SR.No. 20444

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A.SK(15/04/2019)