



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE N. SESHASAYEE

CrI.O.P. [MD] No. 4426 of 2019

and

CrI.M.P. (MD) No. 2696 of 2019

1. Thasaiyan
2. Themotheiyu
3. Jebagiruba

: Petitioners/Accused No. 1 to 3

Vs.

1. State represented by
The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
(In Cr.No. 374 of 2018)

: 1st Respondent/Complainant

2. Selvamani
- : 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned F.I.R in Crime No. 374 of 2018, dated 13.12.2018 on the file of the first respondent police and quash the same as illegal in so far as the petitioner's concerned.

For Petitioners : M/s.A.Elis Chitra Devi

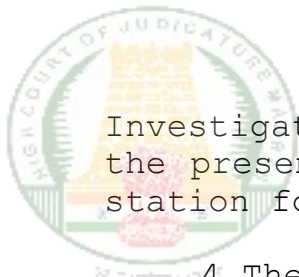
For R-1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (CrI.side)

ORDER

The present petition is filed to quash the case in Crime No. 374 of 2018 for the offence under Sections 294(b), 323, 324, 452 and 506(ii) of IPC.

2. The learned counsel appearing for the petitioners submitted that earlier, the petitioner had preferred a complaint against the son of the defacto complainant herein, that without registering a case on the same, the Investigating Officer has decided to hold an enquiry on the complaint in C.S.R.No. 894 of 2018, that during the midst of the preliminary enquiry that was being held on that complaint the present case was falsely laid and foisted against the petitioners.

3. The learned counsel appearing for the petitioners added that during the preliminary enquiry in the aforesaid C.S.R.No. 894 of 2018, the petitioner's son did not appear, yet the same



Investigating Officer shows considerable enthusiasm to entertain the present complaint to keep the petitioners away from the police station for seeking remedy of his complaint.

4. The learned Government Advocate (Crl. side) make a submission, on instructions, that the petitioners indeed had preferred an earlier complaint and that was being enquired in C.S.R.No.894 of 2018. But he also added that the present FIR registered in Crime No.374 of 2018 is being investigated and offered his objection for interfering with the ongoing investigation.

5. The entire submission made by the rival side has got two parts. The first part relates to a complaint filed by the petitioners against the defacto complainant's son and is being preliminarily enquired in C.S.R.No.894 of 2018. The second part, however, relates to the present case in Crime No.374 of 2018. The only aspect is that whether the second case is foisted to silence the petitioner of his complaint. But this is an aspect that has to be investigated and which the Investigating Officer cannot ignore or overlook as he investigated into the alleged crime.

6. But turning to the FIR, *per se* this Court does not find any material except the complaint filed by the petitioner to support the case of the petitioner that the case was foisted or registered with *mala fide* intentions. Therefore, this Court does not find that it would be appropriate for it to quash the FIR at this stage. So far as petitioner's complaint is concerned, if it involves the commission of any offence and if the respondent police does not act on the same, then the petitioners have remedies open to them under law for them to pursue. Therefore, they can approach the Superintendent of Police and even if he does not act, they may approach the concerned Magistrate Court for appropriate remedy.

7. Subject to the directions/observations, this petition is dismissed. If the petitioners have any material to share, if they considers it desires to share with the Investigating Agency, they are at liberty to do the same. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

Sub Assistant Registrar (CS)

rmi/ta



1. The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.A.ELIS CHITRADEVI, Advocate Sr. No.56631

Crl.O.P.[MD]No.4426 of 2019
and
Crl.M.P.(MD)No.2696 of 2019
26.03.2019

TR (16.04.2019) 3P 4C