



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.(MD) No.5717 of 2014
and
M.P.(MD) Nos.1 & 2 of 2014

P.Krishnan

... Petitioner / Accused

vs.

S.Vadivel @ Sekar

... Respondent / Complainant

PRAYER: Petition is filed under Section 482 Cr.P.C., to call for the records relating to private complaint in S.C.No.29 of 2010 on the file of II Additional District Court, Tirunelveli and Quash the same.

For Petitioner : Mr.N.Tamilmani
For Respondent : Mr.S.M.Mohan Gandhi

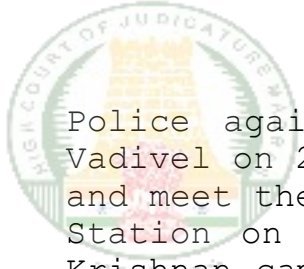
O R D E R

For the sake of convenience, the parties will be referred to by their name.

2. Vadivel @ Sekar filed a private complaint in Cr.M.P.No.174 of 2009, before the learned Chief Judicial Magistrate, Thoothukudi, against Krishnan, Inspector of Police, Eral Police Station, for quashing which, Krishnan is before this Court.

3. Heard the learned counsel appearing for Krishnan and the learned counsel appearing for Vadivel and carefully perused the private complaint and the sworn statements of the witnesses.

4. On a careful reading of the private complaint, it is seen that Vadivel has alleged that there were disputes between the villagers and the priest of Sri Vembadi Sudalai Madasamy Temple, in connection with the tender of vehicle parking lot belonging to the Temple. In this regard, on 05.09.2008, a peace committee meeting was convened by the Revenue Divisional Officer in the Taluk Office between the two groups. It is further alleged that Krishnan received a bribe of Rs.25,000/- from the Temple priest and was supporting him without any basis. On account of this, there was enmity between Vadivel and Krishnan. On 23.10.2008, one Subramanian gave a complaint to the



Police against Vadivel. So, two Constables came to the house of Vadivel on 24.10.2008 and asked him to come over to the Police Station and meet the Inspector for enquiry. Hence, Vadivel went to the Police Station on 24.10.2008 at 07.00 p.m. and waited there for Krishnan. Krishnan came late in the evening and questioned Vadivel as to why he is unnecessarily interfering in the affairs of the Temple and causing trouble to the priest, for which, Vadivel denied the allegations. Krishnan retained Vadivel till 11.30 p.m. and sent him off after giving a warning. Vadivel was asked to come to the Police Station for three days continuously and every day, he went and waited till the evening to meet Krishnan, but to no avail. Therefore, Vadivel filed Crl.O.P.(MD) No.10278 of 2008 before this Court for not to harass and obtained favourable orders. Armed with the order passed by this Court, Vadivel went to the Police Station on 15.11.2008 at 08.00 p.m. along with one Arivalagan and Kasi from his village. In the Police Station, Krishnan referred to the caste of Vadivel and abused him. In this regard, on 20.11.2008, Vadivel gave a complaint to the Deputy Inspector General of Police and the Superintendent of Police against Krishnan. Since no action was taken, Vadivel filed the impugned private complaint. In support of the allegations, the sworn statements of Vadivel, Arivalagan and Kasi were recorded.

5. This Court carefully perused the sworn statements of the three witnesses, who were examined on behalf of Vadivel. The sworn statements do not inspire the confidence of this Court. It is the specific case of Vadivel that from 24.10.2008, he alone went to the Police Station for three days at the instance of Krishnan. Whereas, Arivalagan and Kasi have stated that they accompanied Vadivel on all the three days. That apart, for the alleged incident that took place on 15.11.2008, the complaint was given by Vadivel to the superior Officers only on 20.11.2008.

6. The learned counsel appearing for Krishnan submitted that on the complaint given by one Marimuthu, the Police had registered a case in Crime No.303 of 2008 on 15.09.2008 against Vadivel, for the offences punishable under Sections 294(b), 323 and 506(II) I.P.C. and only thereafter, Vadivel has engineered the present private complaint by contending that he was abused and assaulted by Krishnan on 15.11.2008.

7. However, the learned counsel appearing for Vadivel submitted that Vadivel was acquitted in Crime No.303 of 2008, after trial. He also contended that the prosecution should not be quashed at the threshold and an opportunity should be given to Vadivel to adduce evidence.

8. In the opinion of this Court, as stated above, the three sworn statements recorded by the Court have so many contradictions and therefore, they do not inspire the confidence of this Court. Under such circumstances, the present prosecution of the petitioner is an abuse of process of law.



9. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.C.No.29 of 2010, on the file of the II Additional District Judge, Tirunelveli, are hereby quashed. Consequently, connected miscellaneous petitions are closed.

SD

ASSISTANT REGISTRAR (CS III)

TRUE COPY

SUB ASSISTANT REGISTRAR

krk

To:

The II Additional District Judge,
Tirunelveli.

1CC TO MR. N. TAMILMANI, ADVOCATE SR 56195

1CC TO MR.S.M.MOHAN GANDHI, ADVOCATE SR 56216

KK

4/4/2019

3P 4C

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