



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) No. 997 of 2018

Nallu

...Petitioner/Sole accused

Vs.

1. The State represented by
The Inspector of Police,
Austinpatti Police Station,
Madurai District.
(Crime No.666 of 2016)

... 1st Respondent/Complainant

2. Alagudevan

... 2nd respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records for the First Information Report in Crime No.666 of 2016, dated 22.12.2016 on the file of the first respondent police and quash the same.

For Petitioner : Mr. A. Uthayakumar

For Respondent-1 : Mr.K.Suyambulinga Bharathi
Government Advocate(Crl.Side)

For Respondent-2 : Mr.S. Palanivelayutham

ORDER

This petition has been filed to quash the proceedings in First Information Report in Crime No.666 of 2016, dated 22.12.2016 on the file of the first respondent police, for the offences under Sections 406 & 420 of I.P.C.

2. The learned counsel appearing for the petitioner would submit that the petitioner is Senior Nattamai of Thanakkankulam Village and his ancestors are the Nattamai of 'Arulmigu Venkalamurthy Ayyanar Temple'. They followed the local customs by celebrating the Puratasi Pongal to the deity of Arulmigu Venkalamurthy Ayyanar Temple. Every year, they are collecting tax from the general public and used for celebration of festival. In this regard, the second respondent has lodged a complaint before the first respondent on the allegations that the petitioner/accused was incharge of Periya Karuppu Samy Samiyadi family has collected donations from the villagers for the celebration of the said festival from the year 2003 - 2013. The public, the petitioner and others spent money for the celebration of the festival and they have deposited the balance amount to the bank concern. In the year 2013, a meeting was convened among the general public and accepted to return the amount of Rs.9,93,747/- (Rupees Nine Lakhs Ninety Three Thousand and Seven Hundred and Forty Seven Only) with interest to the temple authorities. Thereafter, they failed to return the said amount and hence, the complaint was preferred by the second



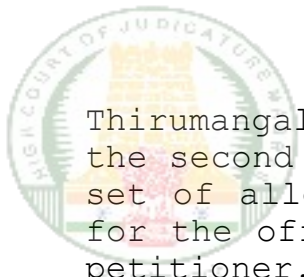
respondent. He further submitted that, in this regard, already the second respondent has lodged a complaint before the District Crime Branch and the Inspector of Police, District Crime Branch conducted very detailed enquiry and found that the said allegations will not attract any of the offence. Further, if any grievance, the defacto complainant was directed to approach the competent Civil Court for appropriate relief. Accordingly, the second respondent and two others have filed a suit in O.S. No.161 of 2015 before the learned District Munsif, Thirumangalam for permanent injunction and other reliefs, only on the cause of action that the petitioner and his family members failed to submit the accounts for the amounts collected from the general public. Thereafter, on 22.12.2016, again on the very same set of allegations suppressing the earlier complaint, the second respondent has lodged another complaint before the first respondent and the first respondent without conducting any enquiry registered a case in Crime No.666 of 2016 for the offences under Sections 420 & 406 of I.P.C., and therefore, the First Information Report is abuse of process of Law and the same is liable to be quashed.

3. The learned counsel appearing for the second respondent would submit that there is a prima facie case has been made out for the offences under Sections 406 & 402 of I.P.C. Admittedly, the petitioner is a Senior Nattamai and collected tax from the general public for conducting Puratasi Pongal to the deity of Arulmigu Venkalamurthy Ayyanar Temple. Thereafter, he failed to submit accounts and also failed to return the balance amount and therefore, sought for dismissal of the instant Criminal Original Petition.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that the First Information Report was registered in the year 2006 and they are ready to complete the investigation, within the stipulated time that may be fixed by this Court.

5. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) for the respondent police and the learned Counsel appearing for the second respondent. Perused the material documents available on record.

6. The petitioner is a Senior Nattamai of Thanakkankulam Village and he collected tax for celebration of Puratasi Pongal to the deity of 'Arulmigu Venkalamurthy Ayyanar Temple'. According to the defacto complainant, the petitioner has failed to submit the accounts of the expenditure and also failed to return the balance amount to the temple authorities. In this regard, the second respondent has already lodged a complaint before the District Crime Branch, Madurai District. In which, they conducted detailed enquiry and filed a closure report and also directed the authorities concerned to approach the Civil Court and accordingly, the second respondent approached the Civil Court by way of filing a Civil Suit in O.S. No.161 of 2015 before the learned District Munsif,



Thirumangalam the same is pending for trial. While being so, again, the second respondent has lodged another complaint on the very same set of allegations the same was registered in Crime No.666 of 2016 for the offences under Sections 420 & 406 of I.P.C., as against the petitioner.

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7. Considering the facts and circumstances, this Court directs the first respondent to complete the investigation and file final report after giving opportunity to the second respondent as well as the petitioner, within a period of Four (4) weeks, from the date of receipt of copy of this order, in view of the earlier enquiry conducted by the District Crime Branch, Madurai and also civil suit filed by the second respondent on the very same set of allegations.

8. With the above observations, the Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
Austinpatti Police Station,
Madurai District.

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

3. The District Crime Branch,
Madurai.

+1 CC to M/s.A.UTHAYA KUMAR, Advocate (SR-87154[F] dated 17/09/2019)

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-86648[F] dated 13/09/2019)

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KK/SAR/30.09.2019/3P-6C/