



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.10846 of 2014

and

M.P. (MD) Nos.1 and 2 of 2014

Karthik @ Karthikeyan

: Petitioner

Vs.

1. The State,
by the Inspector of Police,
Palani Town Police Station,
Dindigul District.

2. Sudha : Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code praying to call for records relating to the case in S.T.C.No.1490 of 2014 on the file of the learned Judicial Magistrate, Palani and quash the same.

For Petitioner	: Mr.D.Venkatesh
For Respondent No.1	: Mr.K.Suyambulinga Bharathi, Government Advocate (Crl.side)
For Respondent No.2	: Mr.J.Lawrance [Legal Aid Counsel]

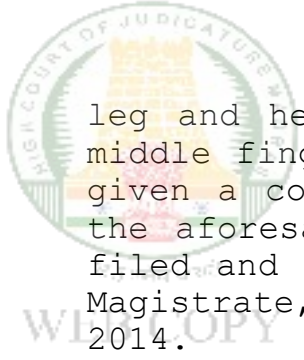
O R D E R

This Criminal Original Petition has been filed to quash the criminal proceedings in S.T.C.No.1490 of 2014 on the file of the learned Judicial Magistrate, Palani.

2. The petitioner is the sole accused in S.T.C.No.1490 of 2014 and he stood charged for the offences under Sections 294(b), 341, 323 and 506(i) of the Indian Penal Code. Now, to quash the above said proceedings, the present petition has been filed.

3. The case of the prosecution, in brief, is as follows:

On 12.02.2014, the petitioner/accused drove the two wheeler in a rash and negligent manner. It was questioned by the second respondent/*defacto* complainant. Due to that, at about 02.00 p.m., on that day, the petitioner/accused waylaid the second respondent/*defacto* complainant and scolded her with filthy language. Then, the second respondent/*defacto* complainant called her husband, there was a wordy quarrel, at that time, the petitioner/accused pushed her down, in which, she suffered minor injury on her right



leg and her husband also suffered blood injury on his right hand middle finger. Hence, the second respondent/*defacto* complainant has given a complaint. Based on that, a crime has been registered for the aforesaid offences. After investigation, final report has been filed and the offence was taken cognizance by the learned Judicial Magistrate, Palani and now, the same is pending in S.T.C.No.1490 of 2014.

4. The learned counsel appearing for the petitioner would submit that this is a case and case in counter. It is only the petitioner who had been attacked by the second respondent/*defacto* complainant and her husband. Based on that, he has given a complaint before the respondent police. But the respondent police, after investigation, referred the complaint given by the petitioner as 'mistake of fact' and filed a final report in the complaint given by the second respondent. When it is a case and case in counter, the respondent police, without following the procedures laid down in Police Standing Orders 588-A, closed the petitioner's complaint and filed the final report in the second respondent's complaint, which is contrary to law. That apart, the materials collected during investigation also do not disclose any cognizable offence against the petitioner.

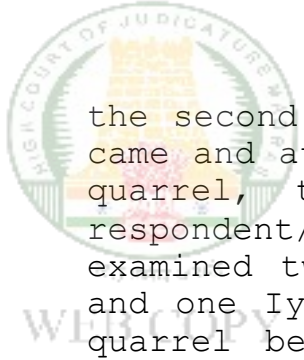
5. On an earlier occasion, even though notice was served on the second respondent and her name was printed in the cause-list, she did not appear either in person or through a counsel. Therefore, this Court appointed Mr.J.Lawrance, Advocate, as Legal Aid Counsel for the second respondent.

6. The Legal Aid Counsel appearing for the second respondent would submit that even though this is a case and case in counter, after investigation, the petitioner's complaint has been closed as 'mistake of fact', and final report has been filed in the second respondent's complaint and the respondent police have also followed the procedures contemplated in Police Standing Orders 588-A. Even assuming that there is a procedural violation, that cannot be a ground to quash the criminal proceedings.

7. The learned Government Advocate (Criminal side) appearing for the first respondent would submit that the materials collected during investigation clearly disclose the offence against the petitioner.

8. I have considered the rival submissions and also perused the records carefully.

9. From the materials collected during investigation, it could be seen that there is a previous enmity between the petitioner and the second respondent/*defacto* complainant. On the date of occurrence, when the second respondent/*defacto* complainant questioned the petitioner/accused relating to his rash and negligent driving of the motorcycle, there was a wordy quarrel. At that time,



the second respondent/*defacto* complainant called her husband and he came and attacked the petitioner and caused injuries to him, during quarrel, the petitioner said to have pushed down the second respondent/*defacto* complainant. During investigation, the police examined two independent witnesses, by name Kumar, S/o.Viswanathan and one Iyer, S/o.Velu. Both of them have stated that there was a quarrel between the petitioner and the second respondent/*defacto* complainant, at that time, the second respondent/*defacto* complainant called her husband and he came to the spot and attacked the petitioner and caused some minor injuries. Thereafter only, the petitioner pushed down the second respondent/*defacto* complainant, thereby causing injury.

10. Considering the above materials, I am of the view that it is only the petitioner who had been suffered injury at the hands of the *defacto* complainant's husband initially, thereafter, during quarrel, the petitioner pushed down the second respondent/*defacto* complainant. The materials collected during investigation do not disclose any cognizable offence against the petitioner herein and the complaint has been given only in total abuse of process of law. In the above circumstances, I am inclined to quash the proceedings initiated against the petitioner and accordingly, the proceedings in S.T.C.No.1490 of 2014 on the file of the learned Judicial Magistrate, Palani, is, hereby, quashed.

11. In fine, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate,
Palani.
2. The Inspector of Police,
Palani Town Police Station,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

- +1 CC to Mr.D.VENKATESH, Advocate (SR-78995[F] dated 31/07/2019)
+1 CC to Mr.J.LAWRANCE, Advocate (SR-79116[F] dated 01/08/2019)

Order made in

CRL.O.P. (MD) .No.10846 of 2014

Dated: 30.07.2019