



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.07.2019
CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.14021 of 2014
and
M.P. (MD) .Nos.1 & 2 of 2014

1.P.Senthil Kumar
2.S.Jeganathan
3.C.Ganesan
4.A.Anbuselvam
5.S.Kasi
6.S.Muthu
7.S.Kannan
8.C.Palaniappan
9.A.Veluchamy

: Petitioners/Accused No.4,5,6,8,
9,10,14,15 and 20

Vs.

1.The State of Tamil Nadu,
Represented by the Inspector of Police,
Thiruppathur Town Police Station,
Sivagangai District. : Respondent / Complainant

2.Ravichandran : Respondents/Defacto Complainant

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code to call for the records relating to the proceedings in C.C.No.107 of 2013, on the file of the District Munsif cum Judicial Magistrate, Thiruppathur in Crime No.12 of 2012, on the file of the first respondent dated 20.01.2012 and quash the same with regard to the petitioners.

For Petitioners : Mr.R.Balakrishnan

For R-1 : Mr.K.K.Ramakrishnan
Government Advocate (Crl, side)

For R-2 : Mr.D.Gnanasekaran

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.107 of 2013, on the file of the District Munsif cum Judicial Magistrate, Thiruppathur, in Crime No.12 of 2012, on the file of the first respondent, dated 20.01.2012.



2. Earlier, based on the complaint given by the second respondent herein, a crime has been registered by the first respondent Police for the offences punishable under Sections 147, 427, 341, 296 and 506(i) of the Indian Penal Code against twenty named persons. The petitioners herein are arrayed as Accused Nos. 4, 5, 6, 8, 9, 10, 14, 15 and 20. The allegation in the First Information Report is that on 18.01.2012, there is a dispute between two groups of people belonging to Thiruvudaiyarpatti Village in Sivagangai District, regarding to get first honour in temple festival. On 18.01.2012, a group of ten persons led by one Rukmani Ganesan, arrayed as Accused No.1 in this case, and Shanmuganathan arrayed as Accused No.2 in this case, broke the temple door and put a counter lock in the temple and also prevented the public from worshipping. In this regard, on 20.01.2012, at about 05.00 p.m., the second respondent gave a complaint to the first respondent Police and the first respondent Police registered a complaint against the petitioners and ten other unnamed accused persons. During the investigation, based on the statement given by the *defacto* complainant under Section 161 (3) of the Criminal Procedure Code, all these petitioners have been implicated as accused and final report has also been filed before the learned District Munsif cum Judicial Magistrate, Thirupathur in C.C.No.107 of 2013. Now, challenging the same, the petitioners have filed the present petition.

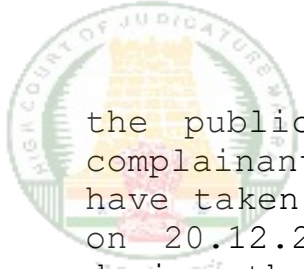
3. The learned counsel appearing for the petitioners submitted that, even as per the First Information Report, it was only ten unnamed persons broke up the door and put a counter lock. Subsequently, during investigation these petitioners were added as accused and he further submitted that the petitioners have been falsely implicated as accused in the aforesaid crime and only in order to wreck vengeance and also with a *mala fide* intention.

4. Per contra, the learned counsel appearing for the second respondent would contend that at the time of lodging a complaint, the names of the petitioners were not known, Subsequently, the *defacto* complainant find out their names and they were added as accused and there is no *mala fide* intention against the petitioners herein as alleged.

5. The learned Government Advocate (Crl. side) appearing for the first respondent, on instructions, submitted that only during the investigation, involvement of the petitioners came to be known, hence, they were also arrayed as accused.

6. I have considered the rival submissions.

<https://hcservices.ecourts.gov.in/1c-services> 7. In the specific case of the complainant that, on 18.01.2012, ten unnamed persons led by accused nos.1 and 2 have broke open the temple door, and also put a counter lock, prevented



the public from worshipping the temple. The accused and the complainant belong to the same village. The occurrence said to have taken place on 18.01.2012, for which, the complaint was given on 20.12.2012, with a delay of two days. But, subsequently, during the investigation, the *defacto* complainant implicated as many as twenty persons including the petitioners herein. Based on that, they are arrayed as accused. Admittedly, the petitioner and the *defacto* complainant belong to the same village and the complaint has been given after a period of two days of the occurrence. Actually, if the petitioners are involved in the crime and definitely the *defacto* complainant would mention the names of the petitioners at the time of lodging the complaint. But, the *defacto* complainant implicated all these persons at the time of recording statement under Section 161(3) of the Criminal procedure Code.

8. Admittedly, there are two groups in the village fighting for their right in the temple and the petitioners are belonging to the rival group. Considering the facts and circumstances of the case, I am fully convinced with the arguments of the learned counsel appearing for the petitioners and it is only an afterthought, and with a *mala fide* intention, all these petitioners have been implicated in the aforesaid crime. In the above circumstances, I am inclined to quash the criminal proceedings in respect of the petitioners alone.

9. In the result, the Criminal Original petition stands allowed and the criminal proceedings initiated in C.C.No.107 of 2013, on the file of the learned District Munsif cum Judicial Magistrate, Thiruppathur, in respect of the petitioners alone is hereby quashed. The trial may be proceeded with the remaining accused. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

tsg

To

1. The District Munsif cum Judicial Magistrate,
Thiruppathur.

<https://hcservices.ecourts.gov.in/hcservices/>

2.-Do-Thro' The Chief Judicial Magistrate, Sivagangai

