



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.09.2019
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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Crl OP(MD)No.17094 of 2014
and
Crl MP(MD)Nos.1 & 2 of 2014

Karpagavalli,
Sub Inspector of Police,
South Police Station,
Thoothukudi,
Thoothukudi District.

... Petitioner / Accused

Vs.

P.Vellaichamy

... Respondent / Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pursuant to C.C No.140 of 2014 on the file of the learned Judicial Magistrate, Sathankulam and quash the same.

For Petitioner : Mr.G.Thalaimutharasu
For Respondent : No appearance

ORDER

The petitioner during the relevant time was working as Sub Inspector of Police in Sathankulam Police Station, Tuticorin District. On 30.04.2013, one Karuppasamy was said to have trespassed into the house of one Vellaiyammal and misbehaved with her. He had also misbehaved with one Latha. This was objected to by one Arumuganayinar. Thereupon, the said Karuppasamy is said to have criminally intimidated the said Arumuganayinar. Knowing the character and background of Karuppasamy, the affected parties are said to have approached the Sathankulam Police Station and lodged a complaint. The petitioner herein was the Sub Inspector of Police. She was said to have been utterly inactive. She did not issue any receipt nor she took any further action. While so, at about 11.00 P.M on the same day, the very same Karuppasamy is said to have attacked Arumuganayinar with Aruval and caused him serious injuries. The grievance of the respondent herein is that if the petitioner had taken prompt action when the first complaint was given, the subsequent occurrence could have been prevented. Therefore, the respondent filed a private complaint before the Judicial Magistrate, Sathankulam and the same was taken on file as C.C No.140 of 2014. To quash the same, this criminal original petition has been filed.



2. Heard the learned counsel for the petitioner. There is no appearance on the side of the complainant.

3. The court below has taken cognisance of the offences under Sections 217, 218 and 221 of IPC. It is seen that the petitioner has registered Crime No.123 of 2013 for the offences under Sections 448, 294(b), 323, 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act and Section 3(1)(x) of SC/ST Act and Crime No.115 of 2013 for the offences under Sections 294(b), 323, 326, 307 and 506(ii) IPC and Section 3(1)(x), 3(2)(v) of SC/ST Act. Since the commission of offences under the SC/ST Act have been disclosed, the petitioner could not obviously have investigated the same. Therefore, the entire case dairy was handed over to the Deputy Superintendent of Police, Sathankulam. He is said to have filed final report also.

4. The core grievance set out in the impugned complaint is that there was inaction on the part of the petitioner herein in registering the first complaint. I am of the view that remedy is provided in such cases under Section 154(3) of Cr.PC. For mere delay in registering an FIR, a police officer cannot be exposed to a charge under Sections 217, 218 and 221 of IPC. Section 217 of IPC will be attracted if a public servant knowingly disobeys any direction of law in order to save some person from legal punishment. Section 218 of IPC will be attracted if a public servant frames an incorrect record. Section 221 of IPC will be attracted if there is any intentional omission to apprehend a person. In this case, all that can be said against the petitioner is that she did not register the FIR immediately. It is not in dispute that in the first occurrence, no one suffered any injury. The petitioner's contention is that she went to the spot to verify the occurrence. The petitioner cannot be blamed for having done so. None of the elementary ingredients of the aforesaid offences are present. The impugned prosecution is an abuse of process intended to embarrass the police official. The impugned prosecution is quashed. This criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate,

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



+1 CC to MR.A.THIRUVADI KUMAR, Advocate (SR-86265[F] dated
12/09/2019)
+1 CC to MR.G.THALAIMUTHARASU, Advocate (SR-86614[F] dated
13/09/2019)

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SKM

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