



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No. 5232 of 2018

and

Crl.M.P. (MD) Nos. 2537, 2538 and 8200 of 2018

WEB COPY

R. Kannan

... Petitioner/Accused

Vs

Palaniammal

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the proceedings in C.C. No. 13 of 2018 on the file of the Judicial Magistrate, Thiruppathur and quash the same.

For Petitioner : Mr.S. Arivalagan
For Respondent : Mr.S. Ayyanar Premkumar

O R D E R

This petition has been filed to quash the proceedings in C.C. No. 13 of 2018 on the file of the learned Judicial Magistrate, Thiruppathur.

2. The learned counsel appearing for the petitioner submitted that originally the occurrence took place on 25.07.2014. The respondent has already lodged a complaint before the Inspector of Police, Kandavarayapatty police station, Sivagangai District and the same has been registered in Crime No. 117 of 2014 dated 08.09.2014 for the offences under sections 452, 354, 506(ii) and 307 of IPC. After completion of investigation, the Inspector of Police filed a closure report in Crime No. 117 of 2014 for the reason that the matter is closed as 'Mistake of Fact. Pursuant to the same, the referred charge sheet notice duly served to the respondent and after receipt of the same the respondent has failed to appear before the concerned Jurisdictional Magistrate and do not filed any protest petition for the closure report. Again, on a very same set of allegations, the respondent has filed a private complaint before the learned Judicial Magistrate, Thiruppathur and the above learned Magistrate mechanically has taken cognizance in C.C. No. 13 of 2018 and issued summons to the petitioner. He further submitted that the first complaint was closed as Mistake of Fact and also confirmed by the learned Judicial Magistrate, Thiruppathur by order dated 05.05.2015, the second complaint for the very same set of allegations is not maintainable. He further submitted that the entire private complaint is nothing and clear abuse of process of law. He also relied upon the Judgment reported in (2017)4 MLJ Crl.



389, Senthil Kumar Vs. S. Palani Kumar and 1998(1) CTC 329, A. Krishna Rao Vs. L.S. Kumar.

3. Per Contra, the learned counsel appearing for the respondent submitted that on 25.07.2014 the mother of the respondent went to Samayapuram and after knowing the said fact, the petitioner trespassed into the house of the respondent in the night around 12.00 a.m. And criminally intimidated her and also threatened with dire consequences on the knife point. Therefore, she has lodged a complaint and the same has been enquired and unfortunately the Inspector of Police, Kandavarayanpatti closed the same as mistake of fact. After receipt of the summons, dated 04.07.2017 from the learned Judicial Magistrate, Thiruppathur she has filed a protest petition before the said Court and thereafter, she has filed a private complaint. On the directions issued by the learned Magistrate, the present private complaint has been filed. Therefore, she has rightly approached the trial Court and lodged a private complaint. Hence, prayed for dismissal of the petition.

4. Heard the learned counsel appearing for the petitioner as well as the respondent.

5. On 25.07.2014 the occurrence took place and as such the respondent has lodged a complaint before the Inspector of Police, Kandavarayanpatti P.S and on receipt of the same a case has been registered in Crime No. 117 of 2014 for the offences under Sections 452, 354, 506(ii) and 307 of IPC as against the petitioner. After completion of investigation, the Inspector of Police has closed the aforesaid complaint as 'Mistake of Fact'. The learned Judicial Magistrate, Thiruppathur also issued referred charge sheet notice and restore the same, the respondent has filed a protest petition. In the protest petition no order was passed by the learned Magistrate and after direction issued by the learned Magistrate, the respondent has filed a present private complaint. After recording the statement from the respondent on 02.02.2018, the private complaint has been taken cognizance and issued summons to the petitioner in CC No. 13 of 2018.

6. In this regard, the learned counsel appearing for the petitioner relied upon the Judgment in 2017 (4) MLJ (Crl.) 389, Senthil Kumar Vs. S. Palani Kumar, this Court held that the second complaint is not maintainable. In the case on hand, the closure report filed by the Inspector of police, Kandavarayapatty Police Station the learned Magistrate has issued referred charge sheet notice with respect of the same the respondent has filed a protest petition and pending protest petition, she was directed to file a private complaint. On perusal of the statement of the respondent, dated 02.02.2018 she categorically stated that she has lodged a complaint before the Sub-Inspector of Police, Kandavarayapatty Police Station and the same has been closed as mistake of fact. The respondent on the direction issued by the learned Magistrate, for



not taking appropriate action as against the petitioner she has filed a private complaint. Therefore, the Judgment cited by the petitioner is not helpful to the case of the petitioner herein.

7. That apart, the allegation raised by the petitioner as against the respondent cannot be considered by this Court. In this regard, the grounds raised by the petitioner cannot be considered under Section 482 of Cr.P.C.

8. With the above observations, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate ,
Thiruppathur.

+1 CC to Mr.S. AYYANAR PREM KUMAR, Advocate (SR-97578[F] dated
12/11/2019)

Order made in
CRL.O.P (MD) No.5232 of 2018
11.11.2019

VB(06.01.2020) 3P 3C