



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.16591 of 2015

and

M.P.(MD)Nos.1 and 2 of 2015

and

Crl.M.P.(MD)No.10344 of 2019

1.Sivamurugan
2.Issakkiraj

... Petitioners / Accused 1 & 2

-vs-

Adimoolakrishnan

... Respondent / Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the criminal case in C.C.No.125 of 2015 on the file of the learned Judicial Magistrate, Ambasamuthram, Tirunelveli District and quash the same.

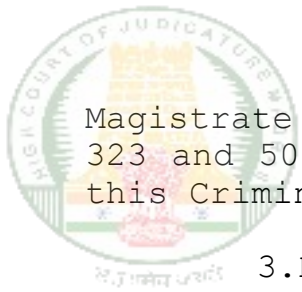
For Petitioners : Mr.J.Lawrance

For Respondent : Mr.M.Jagadeesh Pandian

O R D E R

The petitioners herein are police officials. They stand accused in C.C.No.125 of 2015 on the file of the Ambasamuthram, Tirunelveli District. The said case has since been transferred to learned Judicial Magistrate No.IV, Madurai and re-numbered as C.C.No.353 of 2018. It is a private complaint instituted by the respondent herein.

2.The respondent herein is a practicing lawyer. His specific allegation is that the petitioners herein assaulted and threatened him on 24.04.2015 at about 3.30 p.m. Eventhough he lodged a police complaint, since the petitioners herein happened to be police officials, no action was taken and therefore he was constrained to file a private complaint. The learned Trial



Magistrate took cognizance of the offences under Sections 294(b), 323 and 506(ii) IPC and took the case on file. To quash the same, this Criminal Original Petition has been filed.

3. Heard the learned counsel on either side.

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4. It is seen that the first petitioner herein was the Inspector of Police in Kadaiyam Circle. He received information that the house of one Syed Mohamed in Pudhu colony, Pappankulam was being used as a brothel house. Therefore, the police party went to raid the said place. Upon seeing the police personnel, two persons escaped from the spot in their two wheeler. After arresting one Mary and Selvi, and also rescuing two victim women, based on the information alleged by the first petitioner First Information Report in Crime No.107 of 2015 was registered for the offences under Sections 3(1), 4(2), 2(c), 5, 6(1)(a)(b) and 7 of the Immoral Trafficking Act, 1956. In the said First Information Report, the respondent herein is also figuring as the fifth accused.

5. The case of the respondent is that he is the president of the local advocates association and that he received information from one of his clients that she is being harassed by the local police and that therefore he went to the spot to prevail upon the police to refrain from doing so. It is his specific allegation that the first petitioner herein assaulted him and that the first petitioner brandished his riffle. That is why he was constrained to lodge the impugned private complaint.

6. Admittedly, the respondent herein had not taken any treatment. There is nothing on record to show that he suffered any injury. Therefore, the offences under Section 326 of IPC is not made out. There are no materials to substantiate his claim that he suffered any injury. Thus, the incriminating material to attract Section 326 of IPC is absent. Likewise, the offence under Section 506(ii) is also not made out. The said offences will be attracted only if it can be shown that the complainant felt threatened. It is improbable that the first petitioner herein who is the Inspector of Police would have brandished a Revolver at the respondent herein.

7. I am of the view that the impugned complaint has been given as a counter blast to the implication of the respondent herein in Crime No.107 of 2015. I must at this stage remark that the first petitioner herein was absolutely unjustified in implicating the respondent herein in the aforesaid criminal case. I am of the view that the first petitioner had needlessly and without any justification embarrassed the respondent herein. Therefore, angered by the action of the first petitioner herein, the respondent herein has come out with this counter blast of complaint.



8.In this view of the matter, the impugned proceeding stands quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1.The Judicial Magistrate, Ambasamuthram,
Tirunelveli District.

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

+1 CC to M/s.J.LAWRANCE, Advocate (SR-103495[F] dated 05/12/2019)

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