



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CrI.O.P (MD) No.4019 of 2015

and

M.P. (MD) No.1 of 2015

R.Prabhakaran

... Petitioner/Respondent

Vs

Thiraviumpillai

... Respondent/Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.17 of 2015 on the file of the learned Judicial Magistrate, Sankarankoil, Tirunelveli District and to quash the same with regard to this petitioners.

For Petitioner : Mr.J.Senthil Kumar

For Respondent : No appearance

ORDER

The respondent herein filed O.S.No.197 of 2014 before the District Munsif Court, Sankarankoil, Tirunelveli District, seeking relief of permanent injunction against the second defendant therein. The trial Court granted temporary injunction in favour of the respondent herein on 07.08.2014. An order for granting police protection was also issued.

2. The grievance of the respondent is that even though such a direction was given by the trial Court, the petitioner herein failed to grant police protection. Therefore, he filed C.C.No.17 of 2015 before the Judicial Magistrate, Sanakarankoil. The Court below took cognizance of the offence under Sections 166 and 167 of IPC and issued a summons to the petitioner. To quash the same, this criminal original petition has been filed.

3. Even though the respondent has been served and his name is printed in the cause list, there is no appearance on his behalf.

4. It is seen that even though the elementary ingredients of Section 167 of IPC are absent in the impugned complaint, the only question that arise for consideration is whether the petitioner deserves to be fastened with penal liability for not having granted police protection as mandated by the trial Court.

5. Section 166 of IPC reads as under:-

166. Public servant disobeying law, with intent to cause injury to any person

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

"Whoever, being a public servant, knowingly disobeys any



direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both."

6. The key ingredient of the said provision is that he must knowingly disobey any direction of the law. The further ingredient set out in the provision is that the person concerned must have intended to cause injury to the other person. In this case, there is nothing on record to indicate that there was any willful disobedience on the part of the petitioner herein. In any event, the complainant did not suffer any injury.

7. As rightly pointed out by the learned counsel appearing for the petitioner, the order for granting police protection was passed on 08.11.2014. The complaint was filed one month later i.e., on 15.12.2014. If the petitioner had not granted police protection to the respondent, he would have been obviously dispossessed. In fact, it is not the case of the complainant that he was dispossessed in the meanwhile. Therefore, I am of the view that since the complainant has not suffered any injury at all, the continuance of the impugned prosecution would amount to abuse of legal process. In this view of the matter, the impugned proceedings stands quashed. The criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (ADII)

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Sub Assistant Registrar(CS)

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To

The Judicial Magistrate, Sankarankoil, Tirunelveli District.

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