



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P. (MD)No.5597 of 2015

Dr.K.Krishnasamy

... Petitioner/Accused No.13

Vs.

1. State rep. by,
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
(Crime No.212 of 2014) ... Respondent/Complainant

2. Radhakrishnan ...Respondent/Defacto Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records relating to S.T.C.No.1182 of 2014 pending on the file of the learned Judicial Magistrate No.II, Srivilliputhur and quash the same as far as the petitioner is concerned.

For Petitioners	: Mr.S.Ravi
For R-1	: Mr.A.Robinson, Government Advocate(Crl.Side).
For R-2	: Mr.Radhakrishnan, Party-in-person.

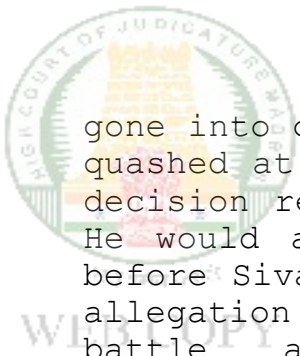
O R D E R

The petitioner is figuring as the 13th accused in S.T.C. No.1182 of 2014 on the file of the Judicial Magistrate No.II, Srivilliputhur.

2. The defacto complainant Shri.Radhakrishnan is a practising lawyer. He is present before this Court. This Court also heard him.

3. The defacto complainant would state that he contested against the petitioner herein in the Parliamentary elections held in the year 2014 for Tenkasi Constituency. According to him, when he was going to Srivilliputhur from Madurai in his vehicle, he was waylaid and a group of persons brutally attacked him and the other occupants of the car. They threatened that unless the defacto complainant withdrew from the electoral fray, he will be done away with. They further claimed that they are only carrying out the instruction of the petitioner herein.

4. The defacto complainant also submitted that the summons in this case had already been issued and that the petitioner is deliberately evading receipt of the summons. He contended that the defences raised by the petitioner herein will have to be necessarily



gone into only in a full-fledged trial and the proceedings cannot be quashed at the threshold stage. He placed reliance on an unreported decision rendered in Crl.O.P.(MD)No.13347 of 2019 dated 25.09.2019. He would also point out that he had given one another complaint before Sivagiri police station in Crime No.87 of 2014. His specific allegation is that he has been carrying on a running battle against the petitioner herein in the matter of his community status and that is why the petitioner is having a deep-seated grudge against him. That is why, at his instance, his henchmen attacked and threatened him. He wanted this Court to dismiss this criminal original petition.

5. The learned counsel appearing for the petitioner reiterated the contentions set out in the memorandum of grounds and prayed for quashing the impugned proceedings.

6. I carefully considered the rival contentions and went through the materials on record. According to the defacto complainant, the attack was carried out by one Rajalingam and others. Even according to the defacto complainant, the petitioner herein Dr.Krishnasamy was not present in the scene of occurrence. According to the defacto complainant, the attacks were only carried out on the advice of the petitioner herein. The petitioner herein is a well known political leader and he is the founder President of a political party. He has been an MLA earlier. Even though the defacto complainant had alleged that there was a theft of cash while filing the final report, the said offence was dropped and cognizance of the offences under Sections 341, 147, 294(b), 109, 506(i) and 323 of I.P.C. was taken.

7. The question that arises for my consideration is whether there is any legally acceptable material for framing the charges against the petitioner herein. Except the statement of the defacto complainant who claims that the name of the petitioner herein was invoked, there is absolutely no other material against the petitioner herein. The petitioner alleged that he was attacked by a group of functionaries belonging to the political party founded by the petitioner. The attackers have been identified by the police in their final report. The allegation of the petitioner is that the attack was inspired by the petitioner. But in support of the charge of abetment, there is no material. This is a case of zero evidence against the petitioner. Even if the allegations made by the defacto complainant are taken at their face value, still no offence is made out against the petitioner.

8. In these circumstances, continuance of the impugned prosecution will amount to an abuse of legal process. In this view of the matter, the impugned prosecution stands quashed as far as the petitioner is concerned. It will proceed against the other accused.



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The criminal original petition stands allowed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.II,
Srivilliputhur.

2. The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

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

+1 CC to M/s.S.RADHAKRISHNAN, Advocate (SR-98879[F] dated 18/11/2019)

+1 CC to M/s.S.RAVI, Advocate (SR-99093[F] dated 18/11/2019)

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