



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) No. 7188 of 2018

and

Crl.M.P. (MD) .Nos.3407 & 3408 of 2018

M.Muniyasamy,
Grade I Constable,
Kenikarai Police Station,
Ramnad.

(Now working at
Traffic Police Station,
Ramanathapuram.

: Petitioner/Respondent No.3

Versus

K.Kandhavel

: Respondent/Defacto Complainant

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to the private complaint in Cr.M.P.No.77 of 2015, on the file of the learned Judicial Magistrate No.II, Ramanathapuram, filed by the respondent, under Section 200 of the Criminal Procedure Code and quash the same as illegal as against the petitioner.

For Petitioner

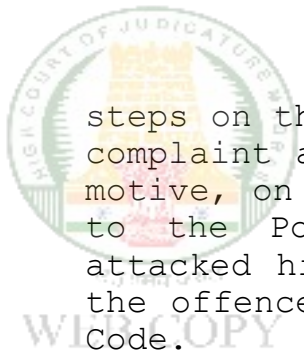
: Mr.V.Selva

O R D E R

This Criminal Original Petition has been filed challenging the private complaint in Cr.M.P.No.77 of 2015, on the file of the learned Judicial Magistrate No.II, Ramanathapuram.

2. The respondent preferred a complaint and the same has been taken cognizance as against the petitioner and others for the offences under Sections 294(b), 323 and 506 (i) of the Indian Penal Code and Sections 166 and 12 of the Human Rights Act. There are totally five accused in this case, in which the petitioner is arrayed as Accused No.3.

3. The crux of the allegation is that on 04.11.2013, the accused viz., Sethuram had destroyed the mirror of the respondent's cycle. Therefore, the respondent had lodged a complaint before the Kenikarai Police Station. However, the Police has not taken any



steps on the said complaint. Thereafter, the respondent preferred a complaint as against the Superintendent of Police. Due to the said motive, on 11.11.2013, at about 07.00 p.m., when the respondent went to the Police Station, the other police officials abused and attacked him and foisted a false case in Crime No.478 of 2013, for the offences under Sections 294 (b) and 506 (i) of the Indian Penal Code.

4. It is seen that one Sethuraman lodged a complaint on 11.11.2013, with the allegation that the respondent abused him and also attacked him with a wooden stick and he also threatened him with dire consequences. On the said complaint, a case has been registered in Crime No.478 of 2013, for the offences under Sections 294(b) and 506 (i) of the Indian Penal Code. After registration of the said F.I.R., he was arrested and remanded to judicial custody. Thereafter, he came out of bail and made a false complaint to the Superintendent of Police that he was abused and assaulted by some Police officials. In that complaint, he has stated that the petitioner herein made a false complaint as per the direction of Sub Inspector on behalf of the said Sethuraman. Except this, there are no allegation as against the petitioner.

5. The learned counsel appearing for the petitioner submitted that the respondent made a vague allegations as against the petitioner. He further submitted that the respondent did not say anything about the present allegation before the Judicial Magistrate, in pursuant to the crime registered in Crime No.478 of 2013.

6. It is seen from the records that the respondent filed a complaint before the State Human Rights Commission and it is pending in S.H.R.C.No.9300 of 2013. It is relevant to rely upon the judgment of the Hon'ble Supreme Court in the case of **State of Haryana and others Vs, CH, Bhajan Lal and others** reported in **1992 Supp (1) SCC 335**. The relevant portion of the judgment reads as follows:-

'Where a criminal proceeding is manifestly attended with mala fide and / or where the proceeding is maliciously instituted with an ulterior motive for working vengeance on the accused and with a view to spite him due to for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge.'

7. The above judgment is clearly applied to the facts of the case in hand and since only in order to wreck vengeance, a private complaint has been foisted against the petitioner and others. Therefore, the private complaint is clearly an abuse of process of law as against the petitioner. It cannot be sustained as against the petitioner.



8. In view of the above, the proceedings initiated against the petitioner in Cr.M.P.No.77 of 2015, on the file of the learned Judicial Magistrate No.II, Ramanathapuram, is hereby quashed and the Criminal Original Petition stands allowed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.II, Ramanathapuram.

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

+1CC TO MR.V.SELVA, Advocate Sr. No. 98232

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Order made in
Crl.O.P. (MD) No. 7188 of 2018
13.11.2019

KG(CO)

TR(06.12.2019) 3P 4C