



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2019

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.10459 of 2016 and
Cr1 MP(MD)No.5184 of 2016

Balameena

... Petitioner

Vs.

1. M.Soundara Pandian

2. The Inspector of Police,
Krishnankovil Police Station,
Virudhunagar District.

... Respondents

(R2 impleaded as per the order of this Hon'ble Court
made in Cr1 MP(MD)No.5417 of 2016 in
Cr1 OP(MD) No.10459/2016 dated 04.07.2016)

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings of PRC No.8 of 2016 on the file of the Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District.

For Petitioner	: Mr.G.Prabhu Rajadurai
For Respondents	: Mr.A.Robinson,
	Government Advocate(crl.side) for R2
	Mr.S.C.Herold Singh for R2

ORDER

The petitioner is shown as accused in PRC No.8 of 2016 on the file of the Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District. The respondent herein filed Cr.M.P No.2301 of 2015 before the learned Jurisdictional Magistrate No.II, Srivilliputhur against the petitioner herein alleging the commission of offences under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The learned jurisdictional magistrate while holding that the other offences are not made out, took cognizance of the complaint only in respect of the offences under Sections 3(1)(x) and 3(ii)(vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. To quash the same, this criminal original petition has been filed.



2. Heard the learned counsel on either side.

3. The petitioner herein during the relevant time was working as the Headmistress in the Panchayat Union Middle School, Kunnoor, Virudhunagar District. She had put in about 26 years of service. While so, the respondent herein alleged that the petitioner had been compelling the students to clean the school toilets. Therefore, he along with others went to protest with the petitioner herein on 25.06.2014 at about 11.00 A.M. The respondent would allege that he saw the students washing and cleaning the toilets. When the complainant demanded explanation from the petitioner herein, she is said to have abused them by referring to their community. The respondent herein belongs to the scheduled castes community. The respondent claimed that he lodged a complaint with the local police station on 08.07.2014. Since no action was taken, he sent a complaint to the Deputy Superintendent of Police, Srivilliputhur on 09.07.2014. It was followed by a further complaint dated 24.11.2014. The respondent would state that since no action was taken, he moved this Court for getting direction in the matter. Thereupon, preliminary enquiry was conducted by the Inspector of Police, Krishnankovil Police Station. The Inspector of Police concluded that no case was made out and a closure report was also filed to that effect. That is why, the instant private complaint came to be filed by the respondent herein.

4. Since the case is one exclusively triable by the Special Court, the learned Judicial Magistrate examined the complainant as well as witnesses on oath. The complainant examined himself as PW.1. One Paramasivam was examined as PW.2. PW.3 is the none other than the own sister of the complainant herein. The learned Judicial Magistrate took the view that the utterance of the offending words by the petitioner herein on the incident date which is said to have taken place on 25.06.2014 is sufficient to take cognizance of the offences under Sections 3(1)(x) and 3(2) vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. The village in question in which the petitioner was working was predominantly inhabited by the members of the scheduled caste community. It is also admitted by the complainant himself that almost all the students of the school in question belong to the scheduled caste community. The petitioner is a woman aged about 46 years. It is inconceivable and utterly improbable that the petitioner would have uttered the words attributed to her. As remarked by the petitioner's counsel, the petitioner would have been lynched if she had done so. But then, the question arises as to why the instant complaint has been instituted against the petitioner herein. It is stated that her colleague by name Vetri



Chezhiyan was suspended from service and that he was under the impression that the petitioner herein was responsible for the same.

6. The petitioner's specific case is that the entire complaint has been engineered by the said Vetri Chezhiyan. Be that as it may, even before the court below, not even a single student was examined. No parent was examined. The complainant herein is not a parent. His children were not studying in the said school. As already pointed out, PW.3 is none other than his own sister. Thus, the court below has chosen to take cognizance of the offences in question based on the statement and oath made by the complainant and his own sister.

7. The occurrence is said to have taken place on 25.06.2014. But then, no complaint was lodged immediately. What is enclosed by the complainant in the typed set of papers is the complaint dated 08.07.2014. I called upon the complainant to produce proof of having submitted the said complaint to the local police. But, no such proof is forthcoming. The complainant's counsel would of course claim that he filed a criminal original petition seeking a direction in the matter. He had enclosed the relevant papers in the said O.P. Therefore, he is unable to secure the same. His client is also not in a position to get proof of the same. From the materials on record, what is seen is that the complaint in respect of the occurrence that is said to have taken place on 25.06.2014 was lodged only on 24.11.2014. Even if I accept the contention of the respondent that the complaint was lodged on 08.07.2014, still that was two weeks later. These aspects show the sheer improbability of the occurrence and the malafide nature of the complainant. Neither the students of the school in question nor any parent was examined. The belated nature of the complaint also clearly goes to show that the impugned complaint is an abuse of legal process.

8. Hence, the impugned prosecution stands quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)



To

1. The Judicial Magistrate No.II,
Srivilliputhur,
Virudhunagar District.
2. The Inspector of Police,
Krishnankovil Police Station,
Virudhunagar District.
3. The Additional public prosecutor,
Madurai bench of Madras high court,
Madurai.

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-99636[F] dated
20/11/2019)

Order made in
CRL OP(MD)NO.10459 OF 2016 AND
CRL MP(MD)NO.5184 OF 2016
19.11.2019

SRS/ 04.06.2020/ 4P/5C