

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.17007 of 2012

and

M.P.No.1 of 2012

G.M. Nandha Kumar

.. Petitioner

Vs.

M. Ebirajan

..Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to allow this Crl.O.P. and call for the records in connection with SC No. 185/2011 on the file of the Principal Sessions court Tiruvallur and quash the same.

For Petitioner : Mr.R. Srinivas

For Respondent : Mr. SNA. Hussainy

O R D E R

This petition is being filed by the petitioner under Section 482 of Criminal Procedure Code to allow this present petition and call for the records in connection with SC No. 185/2011 on the file of the Principal Sessions court Tiruvallur.

2. The case of the petitioner is that he is a Doctor by profession and serving as Assistant Surgeon in the Government Hospital (RLP Unit). On 18.06.2008 while he was providing treatment to the patients in the Causality ward, at that time 4 outsiders including the petitioner, entered the Government Hospital and when the petitioner started enquiring them, they informed that they need an ambulance Vehicle with Oxygen Cylinder to shift a patient admitted in some private Hospital at ponneri to Chennai. Hence, the petitioner politely replied to the respondent as well as to other persons to contact the Chief Medical Officer of the Hospital to avail such services. The petitioner further informed them if the said person was admitted in this Hospital he would give necessary treatment. Further the

respondent and other persons did not consider the request of the petitioner and immediately the respondent made a call to the M.L.A and forced the petitioner to talk to him and the petitioner also talked to him. When the petitioner was talking to M.L.A, the respondent and other persons assaulted the petitioner. Hence, the petitioner registered a complaint in the Ponneri Police Station in Crime No. 748 of 2008 u/s 294(b) 353, 352, 332, 506 (ii) of IPC and also filed a complaint before the State Human Rights Commission in SHRC 5617/2008.

3. The police proceeded further and filed a charge sheet in Crime No. 748 of 2008 on 29.09.2008 for the offences u/s 294 (b) ,325, 333, 506(ii), r/w Section 34 of IPC, against three accused persons including the respondent and registered a complaint before the Ponneri police station and transferred the same to the Principal Sessions Judge, Thiruvallur in SC.No.150 of 2010, which is still pending.

4. In the mean time the respondent filed a complaint in Crime No.749 of 2008 u/s 294 B r/w Section 3(i)(X) of the SC/ST/ Prevention of Atrocities Act, 1989 and the concerned police officer observed that the said case is a fake one. Hence, the police officer returned the same to the Judicial Magistrate Court-I, Ponneri as mistake of fact. Challenging the same the present petition is filed.

5.The learned counsel appearing for the petitioner would submit that the respondent being a advocate forcing the petitioner to talk to M.L.A and when he was doing so he and other persons brutally attacked the petitioner, which seems that the act of the respondent is very illegal. Due to the attack by the respondent, the petitioner became fainted and became unconscious and later on informed the incident to his superior officers on the same day and a case was registered in Crime No.748 of 2008 U/s 294(b), 353, 332, 506 (ii) of IPC in the ponneri police station.

6. Per contra the learned counsel appearing for the respondent would submit that, when the respondent approached the petitioner to provide Ambulance Vehicle with Oxygen Cylinder to shift a patient admitted in a private hospital at Ponneri and the petitioner/Doctor refused to provide the same and thereby a wordy quarrel arose between them and the petitioner filed a case before law enforcing agency, hence the respondent also filed a complaint before law enforcing agency.

7. On a perusal of records it reveals that on 18.06.2008 one person named Deivasigamani aged about 36 years was a relative of the respondent/complainant and he was suffering from Asthma and breathing problem and he was taken to a private clinic called Srivary at Ponneri for first Aid by his relatives and in order to safe guard him, the respondent has approached the petitioner to provide ambulance.

8.The respondent/complainant claims that he made a request to the petitioner/ Government Doctor to provide ambulance with oxygen cylinder to shift the person admitted in hospital to other hospital. The petitioner/ Government Doctor refused to provide ambulance with oxygen cylinder on the ground that the patient is not admitted in Government Hospital and he did not have power to provide ambulance for patients who are not admitted in Government Hospital.

9.Admittedly, the petitioner have no power to provide ambulance for the patients who are not admitted in Government Hospital. Since the petitioner have no power to provide ambulance, this Court cannot blame the petitioner for not providing ambulance to the respondent. The allegation against the petitioner is not heinous one except the one under SC/St Prevention of Atrocities Act.

10.Further, the respondent/complainant did not disclose in his complaint that the petitioner knew the caste of the petitioner. There is also no relationship inbetween them prior to the occurrence. When such being the position, the respondent calling the petitioner by his caste name is not admissible.

11.Hence, the allegations made in the complaint are not established and this Court has no hesitation to arrive at a conclusion that the respondent has not made out any prima facie case against the petitioner and the complainant is an exaggerated and imaginary one.

12. Therefore, this Court is inclined to quash the complaint made by the respondent against the petitioner and accordingly this CrI.O.P is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

smn

To
The Principal Sessions Court,
Tiruvallur.

+lcc to Mr.R.Srinivas, Advocate SR.152

Crl.O.P.No.17007 of 2012
and
M.P.No.1of 2012

RR(CO)
CB(19/03/2020)



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