

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.01.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.16502 & 20828 of 2013
and
M.P.Nos.1 & 1 of 2013

1.Purushothaman

2.Subramani

3.Nallamuthu Gounder

4.Parthiban

5.Padmavathi

6.Kumarasamy

.... Petitioners in
Crl.O.P.No.16502/2013/ Accused

1.Purushothaman

2.Subramani

3.Parthiban

4.Padmavathi

5.Kumarasamy

...Petitioners in
Crl.O.P.No.20828 of 2013

Vs.

1.The State, rep by Sub-Inspector of Police,
Erode South Police Station,
Erode (Crime No.303/2013)

2.R.Arumugham

3.Mr.M.Vijayan,
Inspector of Police,
Erode South Police Station, Erode.

...Respondents in both the Crl.O.Ps

Common Prayer: Petitions filed under Section 482 of Cr.P.C.,
seeking to call for the records relating to the complaint in
Crime No.303/2013 on the file of the Sub Inspector of Police,
Erode South Police Station, Erode and complaint in

S.T.C.No.987/2013 on the file of the Judicial Magistrate No.III, Erode respectively and quash the same.

For Petitioners : Mr.Arul Murugan
(in both the cases)

For first respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor
(in both the cases)

COMMON ORDER

This Criminal Original Petitions have been filed seeking to quash complaint in Crime No.303/2013 on the file of the Sub Inspector of Police, Erode South Police Station, Erode and complaint in S.T.C.No.987/2013 on the file of the Judicial Magistrate No.III, Erode respectively and quash the same.

2.The first petitioner is an Advocate by profession and senior Member of the Erode Bar; the 2nd petitioner is the brother of the 1st petitioner; petitioners 3 & 4 are the son and wife of the 1st petitioner and the 5th petitioner is the uncle of the petitioners 1 & 2. They belonged to a very respectable family in the locality.

3.The petitioners were implicated for the offences under Sections 147, 448, 294(b) 323 & 506(i) IPC., and Sections 147, 448, 294(b) 323 & 506(i) IPC., R/W Sections 147, 448, 294(b), 323 & 506(i) IPC., respectively in Cr.No.303/2013 on the file of the Sub-Inspector of Police, Erode South Police Station, Erode and complaint in S.T.C No.987/2013, on the file of the Judicial Magistrate No.III, Erode in Crl.O.P.No.16502 of 2013 and Crl.O.P.No.20828 of 2013. The said complaints are under challenge. Therefore, the cases are clubbed together and disposed of by this common order.

4.The case of the prosecution is that, a mason was employed in adjacent flat owned by Dr.Thulasiraman and due to previous enmity, the petitioners entered into said Dr.Thulasiraman's house and assaulted the mason and also abused the said Doctor and other people, who were present there.

5.It is case of the petitioner, that though he had given a complaint, the same was not investigated even after a period of three months, but in the meantime, when Dr.Thulasiraman lodged a complaint before the Inspector of Police, Erode, who inturn, without conducting proper investigation, hurriedly filed a charge sheet in S.T.C.No.987 of 2013. Challenging the said charge sheet in S.T.C.No.987 of 2013 and FIR in Cr.No.303 of 2013, the present Criminal Original Petitions have been filed

for quashment.

6.Mr.Arul Murugan, learned counsel appearing on behalf of the petitioners in both the cases submitted that the first petitioner is the owner of the building at Door No.282, E.V.N.Lane, E.V.N.Road, Erode. The entire area is declared as residential zone, in which, the adjacent owner namely Dr.Vimala Thulasiraman, has constructed a multi storied building, without getting permission from appropriate authorities. After coming to know that the building was constructed without any prior permission, the petitioner sent a complaint against the illegal construction, on 22.03.2013 to the Commissioner, Erode Corporation and marked a copy to the Assistant Director, Local Planning Authority, Erode. Further, on the next day, the petitioner complained about the illegal construction by Dr.Thulasiraman, to the Inspector of Police, Erode South Police Station/the first respondent herein. Since, there was no action taken, the first petitioner filed a writ petition in W.P.No.9699 of 2013. While entertaining the writ petition, this Court issued notice to the official respondents therein and thereafter, the Local Planning Authority issued lock and seal notice to the said premises of Dr.Thulasiraman. Thereafter, on 15.04.2013, the Member Secretary, Local Planning Authority issued STOP WORK NOTICE to Dr.Thulasiraman and his wife Vimala Thulasiraman and subsequently on 15.05.2013, the Local Authorities passed an order to lock and seal the premises.

7.Thereafter, Dr.Thulasiraman and Vimala Thulasiraman set-up the second respondent "mason" and filed a false complaint on 29.03.2013 and FIR was registered on 05.06.2013 and charge sheet was filed against the petitioners. The third respondent in collusion with Dr.Thulasiraman filed the charge sheet, which was clearly malafide and motivated one. Accordingly, the learned counsel for the petitioners prayed for quashing the same.

8.The learned Additional Public Prosecutor appearing for the State disputed the contentions raised by the learned counsel appearing on behalf of the petitioners. He would further submit that based on the complaint, proper investigation has been conducted and thereafter charge sheet has been filed and therefore, he prayed for dismissal of the petitions.

9.Taking into the entire facts and circumstances of the case, the averments of the petitioner as to the previous complaint given by the first petitioner, the events leading to the filing of the writ petition before this Court and pursuant to the order passed by this Court, action has been taken by the authorities concerned, it seems that there is a clear case of abuse of process of law and hence, this Court is inclined to quash the proceedings.

10.In the result, these criminal original petitions are allowed and the proceedings in Cr.No.303/2013 on the file of the Sub-Inspector of Police, Erode South Police Station, Erode and the proceedings in S.T.C.No.987/2013, on the file of the Judicial Magistrate No.III, Erode are hereby quashed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrm

To

1.The Judicial Magistrate No.III, Erode.

2.The Sub-Inspector of Police,
State of Tamil Nadu,
Erode South Police Station,
Erode (Crime No.303/2013)

3.The Inspector of Police,
Erode South Police Station, Erode.

4.The Public Prosecutor,
High Court of Madras,
Chennai.

+2ccs to Mrs.M.Sandhiya , Advocate SR.No. 7044

+1cc to Mr.Arul Murugan , Advocate SR.No. 6265

Cr1.O.P.No.16502 & 20828 of 2013
and

M.P.No.1 & 1 of 2013

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A.SK(28/07/2020)

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