

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.OP.No.413 of 2020 and
CrI.MP.Nos.251 & 252 of 2020

1.G.Mathiazhagan,
S/o.Gopal,
No.47/18, North Street,
Ka Elamangalam,
Sathukudal Post,
Cuddalore District - 606 110

2.M.Mahendiran,
S/o.Mathiazhagan,
No.47/18, North Street,
Ka Elamangalam,
Sathukudal Post,
Cuddalore District - 606 110

3.M.Manoj,
S/o.Mathiazhagan,
No.47/18, North Street,
Ka Elamangalam,
Sathukudal Post,
Cuddalore District - 606 110

..... Petitioners

Vs.

1.The State Rep. by
The Sub Inspector of Police,
Virudhachalam Police Station,
Cuddalore District
(Crime No.405 of 2019)

...1st Respondent/Complainant

2.M.Pushparani,
W/o.Moorthi,
Mettu Colony,
Saathukoodal Road,
Viruthachalam Town,
Cuddalore District

... 2nd Respondent/Defacto
Complainant

Prayer :- This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the proceedings pending as against the petitioners in SC.No.307 of 2019 pending on the file of the District and Sessions Judge

cum Special Judge for SC/ST(POA) Act Cases, Cuddalore.

For Petitioners : Mr.K.Balasubramaniam

For Respondents

For R1 : Mr.S.Karthikeyan,
Additional Public Prosecutor

For R2 : No Appearance

ORDER

This petition has been filed to quash the proceedings in SC.No.307 of 2019 pending on the file of the District and Sessions Judge cum Special Judge for SC/ST(POA) Act Cases, Cuddalore having been taken cognizance for the offences under Sections 294(b), 506(ii), 426 of IPC r/w 3(1)(r), 3(1)(s), 3(2)(va) SC ST (Prevention of Atrocities) Amendment 2015 in respect of Crime No.405 of 2019 on the file of the first respondent.

2. The learned counsel for the petitioners would submit that there are totally three accused, in which the petitioners are arrayed as A1 to A3. On the complaint lodged by the second respondent, the first respondent registered case in Crime No.405 of 2019 for the offences under Sections 294(b), 506(ii), 426 of IPC r/w 3(1)(r), 3(1)(s), 3(2)(va) SC ST (Prevention of Atrocities) Amendment 2015 alleging that the petitioners in drunken mood on 29.06.2019, at about 8 p.m. went to the second accused house and abused her with filthy languages and also insulted her caste and also tried to misbehave with her.

3. The learned counsel for the petitioners further submitted that there is a previous enmity between the first petitioner and the husband of the second respondent herein. On 29.06.2019, the first petitioner went to the second respondent's area for collecting monthly subscription charge for the cable TV, and at that time the husband of the second respondent abused the first petitioner in filthy languages and also threatened him with dire consequences. Therefore, the first petitioner lodged the complaint on 29.06.2019 and the same was registered in crime No.385 of 2019 as against the husband of the second respondent herein, namely Moorthy. Thereafter as a counter blast to the complaint lodged by the first petitioner as against the husband of the second respondent, the second respondent lodged complaint on 10.07.2019 for the occurrence took place on 29.06.2019 at about 8.00 p.m., that too after a period of 11 days with the above said allegations. Therefore, the first respondent also mechanically received the complaint and registered case as against the petitioners.

4. He further submitted that on the date of alleged occurrence on 29.06.2019 at about 08.00 p.m., the petitioners were at the police station and the first petitioner lodged the complaint as against the husband of the second respondent and on receipt of the same, the first petitioner was issued CSR No.448 of 2019, and on 30.06.2019 FIR was registered for the offences under Section 294(b) of IPC as against the husband of the second respondent herein. The CSR categorically revealed that the first petitioner was present before the first respondent at about 8 p.m. on 29.06.2019. Whereas, the complaint lodged by the second respondent, in which she stated that the occurrence took place at 8.00 p.m. on 29.06.2019. The petitioners never involved in the crime and the alleged complaint was lodged only to the counter blast to the complaint lodged by the petitioners, that too lodged after 11 days. Therefore, he sought for quashment of entire proceedings.

5. Per contra, the learned Additional Public Prosecutor submitted that the petitioners are arrayed as A1 to A3. They were charged for the offences under Sections 294(b), 506(ii), 426 of IPC r/w 3(1)(r), 3(1)(s), 3(2)(va) SC ST (Prevention of Atrocities) Amendment 2015 and the same has been taken for cognizance in SC.No.307 of 2019 pending on the file of the District and Sessions Judge cum Special Judge for SC/ST(POA) Act Cases, Cuddalore. On 29.06.2019, the first petitioner also lodged complaint alleging that the husband of the second respondent abused him with filthy languages. The same was registered in crime No.385 of 2019 and the husband of the second respondent admitted his guilt and also paid a sum of Rs.250/- as fine in STC.No.1080 of 2019 on the file of the Judicial Magistrate-I, Virudhachalam.

6. Heard, Mr.K.Balasubramaniam, learned counsel for the petitioners and Mr.S.Karthikeyan, Additional Public Prosecutor for the first respondent. Though notice was served to the second respondent and printed the name in the cause list, no one represented on behalf of the second respondent by person or through pleader.

7. The petitioners are arrayed as A1 to A3. On the complaint lodged by the second respondent, the first respondent registered case in Crime No.405 of 2019 for the offences under Sections 294(b), 506(ii), 426 of IPC r/w 3(1)(r), 3(1)(s), 3(2)(va) SC ST (Prevention of Atrocities) Amendment 2015. The case of the prosecution is that when the second respondent was in her house, the first petitioner went to her house and abused her with filthy languages and also threatened her with dire consequences and also called her caste and abused her.

8. On perusal of the records, the occurrence took

place on 29.06.2019 at about 8.00 p.m., whereas the complaint was lodged by the second respondent only on 10.07.2019 after a period of 11 days from the date of occurrence alleged to have taken place. Absolutely there is no explanation from the prosecution to explain the delay caused in lodgement of complaint. It is also seen that at the very same time, namely 29.06.2019 at about 8.00 p.m., the first petitioner was in police station of the first respondent herein and lodged complaint, in which the first petitioner was issued CSR.No.448 of 2019. In CSR, the first respondent categorically mentioned that the complaint was received from the first petitioner at about 8.00 p.m. on 29.06.2019 from the first petitioner herein for the occurrence took place on 29.06.2019 at about 6.00 p.m. Therefore, at the time of alleged occurrence took place, in the case on hand, the first petitioner was very much present in the first respondent Police Station.

9. Further, the next day, namely 30.06.2019, FIR was registered in Crime No.385 of 2019 for the offences under Section 294(b) IPC against the husband of the second respondent herein. In fact, the husband of the second respondent also admitted his guilt. Therefore, the first respondent filed final report and the same has been taken cognizance for the offences under Section 294(b) IPC in STC.No.1080 of 2019 on the file of the Judicial Magistrate-I, Vridhachalam. The husband of the second respondent also pleaded guilty and paid a sum of Rs.250/- fine. Therefore, the petitioners were not present at the time of the alleged occurrence in the house of the second respondent. The entire proceedings initiated by the second respondent is nothing but counter blast to the complaint lodged by the first petitioner as against the husband of the second respondent herein. There is also no explanation for the delay in lodgement of the complaint by the second respondent herein. Therefore, in the case on hand, the SC ST Act has been clearly misused by the second respondent as such it cannot be sustained further. Be that as it may, the pendency of the proceedings in SC.No.307 of 2019 would not serve any purpose since it is a clear abuse of process of Court.

10. In view of the above discussion, this Criminal Original Petition is allowed, and the entire proceedings in SC.No.307 of 2019 pending on the file of the District and Sessions Judge cum Special Judge for SC/ST(POA) Act Cases, Cuddalore is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lok

To

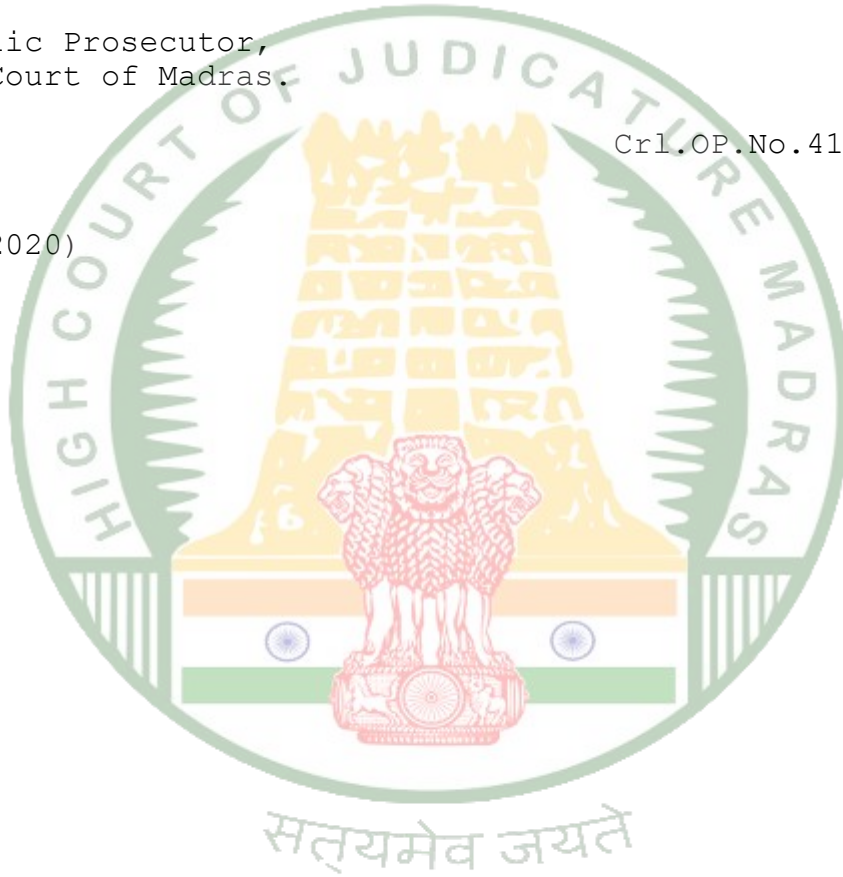
1.The District and Sessions Judge cum
Special Judge for SC/ST(POA) Act Cases,
Cuddalore.

2.The Sub Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

3.The Public Prosecutor,
High Court of Madras.

CrI.OP.No.413 of 2020

SKS (CO)
CB(09/10/2020)



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