

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.26424 of 2013

Rev.T.Devaputhran

... Petitioner

Vs.

Chandran John

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records relating to the proceedings in C.C.No.3390 of 2013 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai, quash the same in so far as it relates to the petitioner.

For Petitioner : Mr.D.Bright Joseph

For Respondent : Mr.J.Antony Jesus

O R D E R

This criminal original petition has been filed seeking to call for the records relating to the proceedings in C.C.No.3390 of 2013 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai and to quash the same in so far as it relates to the petitioner.

2.The petitioner is the third accused in C.C.No.3390 of 2013. The respondent/ defacto complainant filed protest complaint under Section 200 of Cr.P.C. for the offence under Sections 297, 298, 358, 427, 461 r/w 34 I.P.C., on the file of the XXIII Metropolitan Magistrate Court at Saidapet, against the petitioner and three others, seeking to conduct enquiry under Section 202 Cr.P.C. and to take all legal steps to recover the remains of the dead body of A.P.John and to remove the dead body of Leela Samuel from the tomb of the complainant's father's tomb, built by the complainant and to direct the accused to pay compensation of Rs.20 Lakhs for the damage caused to the tomb and for hurting the religious feelings of complainant and for damaging his worship place during every death anniversary of his father and for causing eternal mental agony to the complainant. Challenging the same, this petition has been filed.

3. According to the petitioner, he is the Presbyter and Chairman of the CSI St. Thomas English Church. The said Church is owning and maintaining a cemetery in Quibble Island, Santhome High Road, Chennai and the petitioner is incharge of the maintenance of the said cemetery. If any member of the said Church dies, any member of the deceased family can approach the petitioner, seeking permission for burial. The petitioner will accord permission, provided they produce the death certificate given by a Doctor.

4. Likewise if any member of another nearby CSI Church dies, a member of the deceased family can approach their own Pastor and the said Pastor can send a written request seeking permission to bury the dead body in the cemetery at Quibble Island. In such case also the petitioner will accord permission for burial. By virtue of such permission and burial, no member of such families would acquire any right whatsoever over the piece of land wherein the dead bodies are interred. They are permitted to construct tombs, in memory of the dead person. The members of those families are permitted to visit the tombs to pay their respects.

5. On 13.09.2012, the petitioner received a letter from the Pastor of an adjoining Church, known as CSI House of Prayer Church at Adyar, wherein, it was stated that a regular communicant member of his Church by name Mrs. Leela Samuel, wife of Samuel Thambi, died on 12.09.2012 and sought permission to bury her in the same grave where her father A.P. John was buried, in Quibble Island, with an application filled and signed by her son namely Abraham Samuel, along with the death certificate, issued by a Doctor. The said A.P. John died on 21.06.1991 and was buried in Quibble Island cemetery, 22 years ago.

6. On receipt of the said letter, the petitioner accorded permission for burial. Hence, the petitioner lodged the complaint. The said A.P. John is the father of the defacto complainant and Leela Samuel is the sister of the defacto complainant.

7. The learned counsel appearing for the petitioner would submit that the petitioner has nothing to do with the act of the other accused. He is the Presbyter and Chairman of the CSI St. Thomas English Church and as per the request made by the Pastor of the nearby Church, he accorded permission for burial of the complainant's sister as per the religious sentiment. He would further submit that the petitioner had no malafide intention in according permission for the burial of the defacto complainant's sister. Hence, implicating the petitioner as accused is un-sustainable one. Accordingly, he prayed for allowing the petition.

8.The learned counsel appearing for the respondent vehemently opposed for allowing this petition.

9.The petitioner is the Presbyter and Chairman of the CSI St.Thomas English Church and as per the request made by the Pastor of the nearby Church, he accorded permission for burial of the defacto complainant's sister as per the religious sentiment. Therefore, this Court is of the opinion that the petitioner had no malafide intention in according permission for the burial of the defacto complainant's sister and the petitioner has nothing to do with the act of the other accused. Hence, implicating the petitioner as accused is un-sustainable one.

10.In view of the above, the complaint in C.C.No.3390 of 2013 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai, is quashed, only in respect of the petitioner herein/ third accused.

11.This criminal original petition is accordingly allowed. Consequently, connected miscellaneous petition, if any, is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The XXIII Metropolitan Magistrate Court,
Saidapet, Chennai

2. Do Thro The Metropolitan Magistrate, Chennai

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1 CC to Mr.N.Rajan, Advocate sr 46031.

+1 CC to Mr.J.Antony Jesus, Advocate sr 5385.

Cr1.O.P.No.26424 of 2013

RR(CO)
SP(26/02/2020)