

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.O.P.Nos.26083 of 2016 & 2640 of 2020
and Crl.M.P.Nos.12945 of 2016 & 1586 of 2020

K.Lakshmi
Sub Inspector of Police
Former Deevattipatti Police Station,
Now at EOW (Economic Offence Wing)
Salem District. ... Petitioner in Crl.O.P.
No.26083/2016/Accused

Periyasamy
Sub Inspector of Police
Working as Sub Inspector in
MD Choultry Police Station
Sankagiri Sub Division,
Salem District. ... Petitioner in Crl.O.P.
No.2640/2020/Accused 2

Vs.

1.The Inspector of Police,
Deevattipatti Police Station,
Salem District. ...1st Respondent

2.K.Murugesan ...2nd Respondent in both
Crl.OPs./Defacto Complainant

Common Prayer : Criminal Original Petitions filed under
Section 482 Crl.P.C. praying to call for the records of
Deevattipatti Police Station in Crime No.473 of 2016 on the
file of the first respondent Police and quash the same.

For Petitioners : Mr.M.T.Arunan
(in both Crl.OPs) and Mr.M.A.Aruneshe

For Respondents : Mr.L.Charles
(in both Crl.OPs) Government Advocate [R1]
No appearance [R2]

COMMON ORDER

On a petition in C.M.P.No.2977 of 2016 filed by Murugesan
(the second respondent herein), under Section 156(3) Cr.P.C.,
the Judicial Magistrate, Omalur, directed the Police to
conduct an inquiry, pursuant to which, the first respondent

has registered a case in Crime No.473 of 2016 on 20.10.2016 under Sections 120B, 166, 420 & 427 IPC against Suresh Kumar (A1), Inspector of Police, Deevattipatti Police Station, Periasamy (A2), SI of Police, Deevattipatti P.S., Lakshmi (A3), SI of Police, Deevattipatti P.S., Kandasamy (A4), Inspector of Police, Deevattipatti P.S. and Udhaya Kumar (A5), Deputy Superintendent of Police, Omalur Sub Division, Salem District, for quashing which, the second and third accused have filed the present petitions.

2. Notice has been served on second respondent and his name is also printed in the cause list.

3. Heard Mr.M.T.Arunan and Mr.M.A.Aruneshe, learned counsel for the petitioners and Mr.L.Charles, learned Government Advocate for the first respondent.

4. It is the case of the second respondent that his wife Dhanalakshmi ran away with lot of jewels from the matrimonial home on 26.08.2014; that he went to the Police Station to lodge a complaint which was not entertained by the accused herein; however, the accused entertained a complaint from Rajamani, the mother of Dhanalakshmi and registered a case in Crime No.644 of 2014 for woman missing and refused to register a case for theft of jewels by Dhanalakshmi; that without proper inquiry, they closed the F.I.R. in Crime No.644 of 2014 and thereby, caused serious prejudice to him.

5. Admittedly, the wife of the defacto complainant ran away on 26.08.2014 and an F.I.R. was registered in Crime No.644 of 2014 on the complaint of Rajamani, the mother of Dhanalakshmi. Police secured Dhanalakshmi and produced her before the Judicial Magistrate, Omalur, on 27.10.2014; during the inquiry, Dhanalakshmi told the Magistrate that her husband Murugesan attempted to murder her by setting her ablaze on 25.08.2014 at 10 pm and that is why, she ran away from him. Murugesan filed H.C.P.No.2485 of 2014 before this Court for production of his wife Dhanalakshmi. Accordingly, the Police produced Dhanalakshmi before this Court on 29.10.2014 and Dhanalakshmi told the Court that she is not willing to go with her husband as she is apprehending danger to her life from him. Therefore, this Court set her at liberty as she was 38 years old.

6. In such view of the matter, the allegations made by Murugesan in the impugned F.I.R. are fanciful and deserves to be quashed. In the light of the facts obtaining in this case, the learned Judicial Magistrate, Omalur, ought not to have issued the directions under Section 156(3) Cr.P.C. on the complaint filed by Murugesan especially in view of the guidelines given by the Supreme Court in the case of "Mrs.Priyanka Srivastava and another Vs. State of U.P. and others" reported in [(2015) 6 SCC 687].

7. Accordingly, these Criminal Original Petitions are allowed and the entire F.I.R. in Crime No.473 of 2016 is quashed not only as against the petitioners herein but also against Suresh Kumar (A1), Kandasamy (A4) and Udhaya Kumar (A5). Connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Omalur,
Salem.

2.The Inspector of Police,
Deevattipatti Police Station,
Salem District.

3.The Public Prosecutor,
High Court of Madras,
Chennai - 600104.

+5 cc's to Mr.M.T.Arunan, Advocate,sr.33456.

Kj(co)
krd 29/10
krd 5/11

Crl.O.P.Nos.26083 of 2016 & 2640 of 2020

सत्यमेव जयते

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