

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.Nos.22320 and 22381 of 2014
and M.P.Nos.1 and 1 of 2014

1.Poonjolai
2.Senthil
3.Anbu
4.Ganesan

..Petitioners in Crl.O.P.22320/2014
..Petitioner in Crl.O.P.22381/2014

Vs

V.Sudhakar

..Respondent in both Crl.O.Ps

Common Prayer: Crl.O.Ps., filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.72 of 2014 pending on the file of learned Judicial Magistrate, No.III, Vellore, Vellore District and quash the Criminal Proceedings against the petitioners.

For Petitioners : Mr.J.Rajendira Prabu

For Respondent : No appearance

ORDER

The respondent filed a private complaint against the petitioners before the learned Judicial Magistrate No.III, Vellore, under Section 200 Cr.P.C., for the offence under Sections 294(b), 342, 352, 323, 355 and 506(i) of IPC read with 3(1)(X) and Section 4 of S.C. & S.T. Act (Prevention of Atrocities), 1989. After receipt of the summons, the petitioners have approached this court by invoking Section 482 Cr.P.C., to quash the complaint.

2. Heard the learned counsel for the petitioners. None appeared on behalf of the respondent.

3. The learned counsel for the petitioners would submit that originally the case was registered against the respondent by the petitioners in Crl.O.P.22320 of 2014 viz., the accused 2 to 4. After arrest, during the custody, against the petitioners 1 to 3 in Crl.O.P.22320 of 2014, the respondent filed a complaint before A-1, who is the petitioner in Crl.O.P.No.22381 of 2014. The petitioner in Crl.O.P.No.22381 of 2014/A-1 has not taken any steps and therefore, the respondent has filed a private complaint before the learned Judicial Magistrate No.III, Vellore. The learned Magistrate, without applying his mind has taken cognizance of the offence. The Magistrate has no power to entertain the complaint and further there is no allegation against A-1. The only allegation against A-1, A-2 to A-4 is that A-1 has not taken any action against A-2 to A-4 on the complaint given by the respondent. Therefore, Section 3(1)(X) and Section 4 of SC/ST (Prevention of Atrocities Act), 1989, would not be attracted against A-1. Further all the petitioners herein are public servants and no action has been taken against A-2 to A-4 so far. More over, prior sanction has to be obtained to prosecute the complaint against police officials, for taking any action. The learned Magistrate has not applied his mind and failed to see the settled principles of law and has taken cognizance of the offences as against the petitioners, which warrants invoking of Section 482 Cr.P.C., in this case.

4. None appears for the respondent. Heard the submissions made on the side of petitioners and perused the records.

5. A reading of the complaint reveals that there are allegations against the petitioners. The Magistrate found that there is prima facie allegation against the petitioners to take the complaint on file and as such taken the complaint in P.R.C.No.72 of 2014.

6. The learned counsel for the petitioners would submit that even on the date of the remand before Magistrate in the criminal case, the complainant has not made any complaint against the petitioners before the Magistrate, but it is stated that he was harassed by the petitioners and in order to take vengeance against his arrest, the complainant has taken a false complaint.

7. In any event, since there are prima facie allegation against the petitioners, the Magistrate, after examining the witnesses and the entire materials, come to the conclusion that the complaint can be taken on file and commit the proceedings in the designated court. But before making such enquiry, the petitioners have approached this court with the above petitions.

8. The contention of the counsel for the petitioners is that

the Magistrate has taken cognizance of the complaint without any application of mind and sanction from the appropriate authorities at the stage of prosecution stage, is not acceptable. On reading of the complaint, this court finds that there is prima facie allegation against the petitioners. Therefore, it is not a fit case to invoke Section 482 to quash the complaint. Therefore, the Criminal Original Petitions are dismissed. The learned Magistrate is directed to proceed further with the complaint, in accordance with law. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Judicial Magistrate, No.III, Vellore, Vellore District

2. The Section Officer, Criminal Section, High Court, Madras.

+1cc to Mr.V.Parthiban, Advocate, S.R.No.12024

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NR(CO)
KKV/15/06/2020

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