

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.13744 OF 2014

AND

CRL.M.P.NO.1 OF 2014

Kannammal

... Petitioner/Accused No.5

Versus

1. P.Mani
2. Vennila

(second respondent is impleaded as per the order of this Hon'ble Court dated 25.03.2019 in Crl.M.P.No.4249 of 2019 in Crl.O.P.No.13744 of 2014)

... Respondents/Complainats

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the case in C.C.No.36 of 2014 on the file of the learned Judicial Magistrate-II, Dharmapuri and quash the same.

For Petitioner : Mr.R.Srinivas

For Respondent : Mr.I.Abrar Mohammed Abdulla

ORDER

The petitioner, who is an accused(A5) in C.C.No.36 of 2014 pending on the file of the learned Judicial Magistrate-II, Dharmapuri for the offence under Sections 147, 447, 506(i) and 379 IPC has filed this quash petition.

2.The gist of the case is that the first respondent/complainant has filed a private complaint under Section 200 Cr.P.C., against the eight persons. The second respondent (A1) is his estranged wife. The second accused is the brother of the first accused. The third accused is the brother-in-law and the 4th accused is the sister of the second respondent. The accused 5 to 8 are the police personnels, who are all working in All Women Police Station, Dharmapuri. After examination of the witnesses and documents, cognizance was taken against the accused 1 to 5 and summons were issued by the learned Judicial Magistrate-II, Dharmapuri.

3. The first respondent is an agriculturist and also running a poultry. Prior to 17 years, the marriage was solemnised between the first and second respondents. Out of the wedlock, two children were born, now aged about 16 years and 13 years, respectively. For the past two years, the 2nd respondent (A1) was indulging in wrong activities and she obtained a loan from the self-help group and the same was given to her brother and sister and spent lavishly. Further, the second respondent was asked the first respondent to repay the said loan. But the same was refused by the first respondent. Therefore, the second respondent used to pick up quarrel with the first respondent. Subsequently, the second respondent had given a false complaint against her husband, namely, the first respondent before the All Women Police Station, Dharmapuri. For which, he was called for an enquiry on several occasions. Therefore, the first respondent had lodged a complaint before the Superintendent of Police, Dharmapuri on 12.08.2013 about the false complaint given by his estranged wife. When he went to the Police Station on 12.08.2013, the second respondent (A1) and all other accused persons had come to the first respondent's house with 3 TATA ACE vehicles and broke open the lock and took away cash of Rs.2,00,000/-, grinder, gas stove, mixie, Chairs, refrigerator, provisions, Cot, Beuro, and gold jewels worth about 10 sovereigns, cattle (cows, goats and chickens) and all other house hold articles. When the parents of the first respondent questioned the act of the second respondent(A1), the accused 1 to 8, threatened them and left. On coming to know about the same, when the first respondent went to All Women Police Station, the said three TATA ACE vehicles were standing in front of the police station along with the articles. The first respondent had taken photographs and informed the Inspector of Police (A8), AWPS, Dharmapuri, about the illegal activity of the second respondent(A1). But the Inspector of Police has supported the first accused and her relatives. Therefore, the first respondent lodged a complaint against the accused 1 to 8 before the Superintendent of Police, Dharmapuri on 13.08.2013 against his wife and her relatives and accused 5 to 8, who are working in the All Women Police Station, Dharmapuri. However, no action was taken. Therefore, the first respondent filed a private complaint before the learned Judicial Magistrate-II, Dharmapuri against the accused 1 to 8. The learned Magistrate took cognizance of complaint and sent summons to A1 to A5. During pendency of the trial, the petitioner has filed this petition to quash the C.C.No.36 of 2014.

4. The learned counsel for the petitioner would submit that on 24.07.2013, the second respondent (A1) had lodged a complaint against her husband, the first respondent herein for demand of dowry, cruelty meted out by the first respondent and his family members and the illegal intimacy of first respondent with one

Rajammal W/o.Narayanan and her jewels pledged in the Bank without her knowledge. A case was registered in CSR. No.292 of 2013 on 24.07.2013, the first respondent was called for an enquiry, on 31.07.2013 and 05.08.2013, the first respondent reached a compromise with his estranged wife and given an undertaking letter that he would return the jewels of his wife, take care of his wife and children and settled the disputes between them. Thereafter, both the first respondent and his estranged wife on the compromise, gave a letter to that effect. On 12.08.2013, the first respondent lodged a complaint before the Superintendent of Police, Dharmapuri against his wife. In the said complaint, the first respondent has not mentioned anything about the earlier complaint given by his wife dated 24.07.2013 and the compromise dated 05.08.2013.

5. Further the learned counsel for the petitioner would submit that again on 13.08.2013, the first respondent lodged a complaint against the accused 1 to 8 before the Superintendent of Police, Dharmapuri with false allegations. Thereafter, the first respondent filed a private complaint against the accused persons 1 to 8 before the learned Judicial Magistrate-II, Dharmapuri. An enquiry was conducted and pre cognizance statement of CW1 to CW14 was recorded. In the said statement, the first respondent (CW1) made a false allegation against the petitioner. Except CW2 (mother of the first respondent), no other witnesses have mentioned the name of the petitioner. CW3 (father of the first respondent), does not make any mention about the petitioner and CW4 (employee of the first petitioner), deposed a different version. CW5, who is the neighbour of the first respondent, does not specifically state about the petitioner. From the evidence of CW1 to CW5, it is seen that there are contradiction between them and their statement are also doubtful, unbelievable and all the witnesses are interested witnesses. The first respondent had made a false allegation against the petitioner and implicated her. The first respondent has ill-treated his wife and he is having illegal intimacy with one Rajammal. For the action taken against the first respondent by All Women Police. The first respondent had animosity against the All Women Police, Dharmapuri. That is the reason, the first respondent had filed a private complaint against the Accused 5 to 8 making false allegation, who are all working in the All Women Police Station. Hence, the learned counsel prayed to allow this petition.

6.The learned counsel appearing for the first respondent would submit that a false complaint has been given by his estranged wife, Vennila, who is the second respondent herein. For the past two year, her activities become worse and she developed relationship with many persons, which was questioned by the first respondent, for which she has lodged a false

complaint against him. Further, the second respondent availed loan and the same was given to her sister and brother and spent lavishly. The second respondent has not taken care of the children and aged parents of the first respondent and she used to go out in the early morning and returned late night. Which was questioned by the first respondent, for which she used to pick up fight and lodged a false complaint against the first respondent before the All Women Police Station, Dharmapuri, The petitioner (A5), Sub Inspector of the said Police Station, without conducting any proper investigation, acted as a recovery agent. In the presence of the petitioner(A5) and other Polices, the second respondent and her relatives had broke open the lock and taken away the cash, jewels, household articles, provisions and cattle of the first respondent in three vehicles. When the parents of the first respondent and neighbour questioned about the same, the petitioner (A5) threatened them with dire consequences. Therefore, the petitioner played a vital role. Hence, the learned counsel for the first respondent prayed to dismiss the O.P.

7. Heard the learned counsel for the petitioner as well as the respondent and also perused the materials available on record.

8. It is admitted that the first and second respondents are the husband and wife and they have two children, aged about 16 and 13 years, respectively. It is seen from the records that due to the dispute between the couple, the wife, second respondent herein, made a complaint dated 24.07.2013 before the Inspector of Police, All Women Police Station, Dharmapuri. Subsequently, based on the enquiry, the petitioner(A5) has solved the dispute between the first and second respondent. The first respondent had given an undertaking letter dated 05.08.2013 to the Inspector of Police stating that he would take care of his wife and children and return the jewels of the second respondent and further he would settle all the disputes. Suppressed all these facts, on 12.08.2013, the first respondent had lodged a complaint against the second respondent before the Superintendent of Police, Dharmapuri. Again on 13.08.2013, he made another complaint against the accused 1 to 8 before the Superintendent of Police, Dharmapuri. On 02.09.2013, the first respondent filed a private complaint against the accused 1 to 8 before the learned Judicial Magistrate-II, Dharmapuri. After enquiry, the learned Magistrate has taken cognizance of complaint, sent summons to A1 to A5 and recorded the statement of the witnesses, viz., CW1 to CW5. During the pendency of the case, the petitioner herein(A5) has filed this petition to quash the C.C.No.36 of 2014 as against her.

9. It is seen that on receipt of the complaint from the

second respondent, the petitioner attached to the All Women Police Station, Dharmapuri, had tried to solve the issues uniting the first respondent with his wife, taking an undertaking dated 05.08.2013, which offended of the first respondent. That is the reason, the first respondent, with an ulterior motive, had implicated the petitioner as Accused No.5 in the above said case.

10. On careful perusal of statements and records, It is seen that there is no serious allegation against the petitioner (A5), except that the petitioner was present when the articles were taken by the estranged wife of the first respondent.

11. Considering the rival submissions made by the learned counsel for both the parties and on perusal of the materials and also statement of the witnesses, this Court finds that except there is mention about the name of the petitioner, there is no specific allegation against the petitioner in this case. The petitioner admittedly is employed as Sub Inspector of Police, who is a public servant and no sanction under section 197 of Criminal Procedure Code is obtained in this case. The petitioner has been implicated with an ulterior motive to spite venom and vengeance. Continuation of proceedings would amount to abuse of process of law.

12. In the result this Criminal Original Petition is allowed and the proceedings in C.C.No.36 of 2014 on the file of the learned Judicial Magistrate-II, Dharmapuri, is quashed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate-II,
Dharmapuri.

CRL.O.P.No.13744 of 2014 and
Crl.M.P.No.1 of 2014

NRJK (CO)
CS/17/07/2020