

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.No.24811 of 2019
and Crl.M.P.No.13231 of 2019

1. M.Shanthi
W/o. Late Malar Arasu
2. Kalishwaran
S/o.Naga Rajan
3. Shanthumaniraja
S/o.Anagamuthu. Petitioners

Vs

1. The Inspector of Police (L&O)
Attur Police Station,
Salem District.
2. Girija Devi
W/o.Ravichandran Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records pertaining to the FIR registered in Crime No.660 of 2018 on the file of the Attur Police Station at Salem and quash the same.

For Petitioners: Mr.R.Prasanna Vineeth Durai

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For R2 : Mr.V.R.Annagandhi

ORDER

This Criminal Original Petition has been filed praying to call for the records pertaining to FIR in Crime No.660 of 2018 on the file of the Attur Police Station and quash the same as illegal.

2. Heard Mr.R.Prasanna Vineeth Durai, learned counsel appearing for the petitioners, Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent and Mr.V.R.Annagandhi, learned counsel appearing for the second respondent.

3. The learned counsel appearing for the petitioner would contend that, because of the reason that the petitioners filed civil suit against the second respondent in O.S.No.70 of 2011 on the file of the Subordinate Court, Attur, the second respondent herein lodged false complaint before the first respondent police and on receipt of the same, the first respondent registered a case, which is purely illegal. Further he would submit that the third petitioner being an age old person, in order to harass him, the second respondent lodged this false complaint before the police. Therefore, it is necessary to quash the entire proceedings.

4. Per contra, the learned Additional Public Prosecutor appearing for the Police would contend that the avernments found in the FIR constitute prima facie offence and therefore the truthfulness of the avernment has to be decided only during the time of investigation or during the time of trial and therefore, quashing the FIR is unnecessary. Accordingly, he prayed to dismiss the petition.

5. On considering the rival submission made by the learned counsel appearing on either side, on going through the avernments found in the FIR, it seems that on 17.12.2018 at about 10.30 a.m., when the second respondent was in house, the petitioners herein and five others came there and by using the abusive words threatened the second respondent. Further during the time of occurrence, some of the accused with the deadly weapon unlawfully entered into the house of the second respondent and damaged the household articles. When the same was questioned by the second respondent all the accused persons made life threat to her. During that time, the public were rushed to the scene of occurrence, on seeing them the petitioners were ran away from the scene of occurrence. Therefore, the said averments found in the FIR clearly constitute the prima facie offence under Sections 294(b), 451, 147, 148, 323 and 506(ii) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act and also the same are cognizable in nature. As rightly pointed out by the learned Additional Public Prosecutor, the truthfulness of the said avernments has to be decided only during the time of investigation or during the time of trial.

6. At this juncture, it is relevant to see the judgment of our Hon'ble Apex Court in the case of SAU. KAMAL SHIVAJI POKARNEKAR vs. THE STATE OF MAHARASHTRA & ORS. in Criminal Appeal No. 255 of 2019, wherein it was held as follows;

"5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are Sonu Gupta v. Deepak Gupta and Ors. 2015 (3) SCC 424. disclosed, there would be no justification for the High Court to interfere.

6. Defences that may be available, or facts/aspects which when established during the trial, may lead to acquittal, are not grounds for quashing the complaint at the threshold. At that stage, the only question relevant is whether the averments in the complaint spell out the ingredients of a criminal offence or not."

7. Herein also the avernments found in the FIR are factual in nature. Therefore, this Court cannot pass any positive order in favour of the petitioners. However, since the petition mentioned FIR registered in the year 2018, it is appropriate to direct the first respondent to complete the investigation within the time stipulated by this Court. Accordingly, the first respondent police is directed to complete the investigation and file final report within the period of three months from the date of receipt of copy of this Order.

8. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

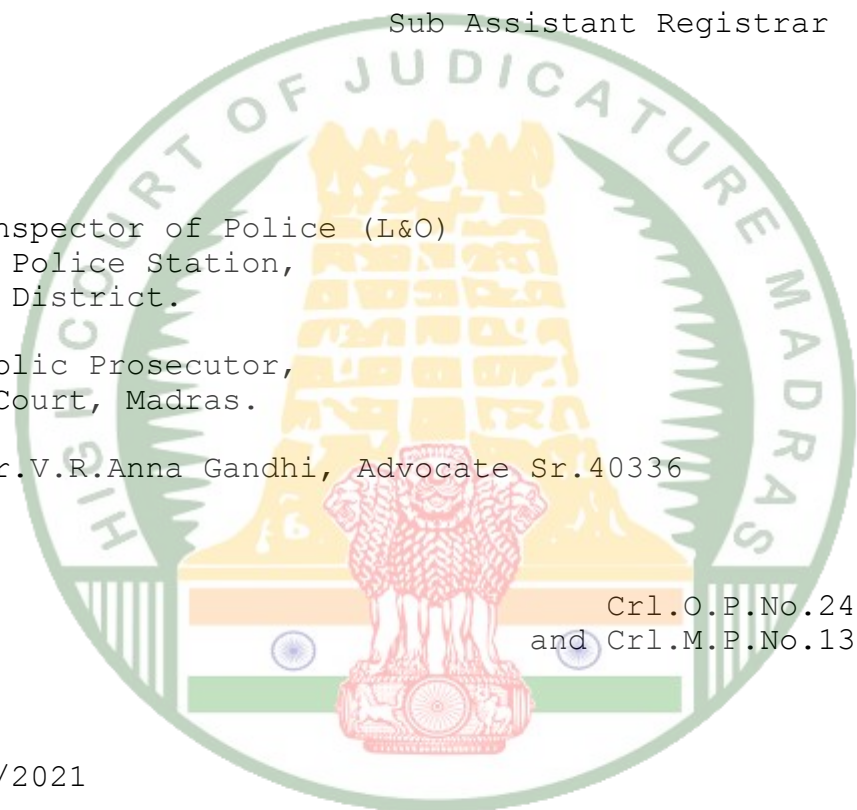
1. The Inspector of Police (L&O)
Attur Police Station,
Salem District.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.V.R.Anna Gandhi, Advocate Sr.40336

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The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The text "HIGH COURT OF JUDICATURE MADRAS" is written in a green circle around the central image. Below the seal, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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