

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.28948 of 2019
and

Crl.M.P.Nos.15489 & 15490 of 2019

K.M.H.Rafiyutheen @ Rabi,
S/o.Habib Sayabu

... Petitioner/Accused A4

versus

1.State rep. by
Inspector of Police,
Polur Police Station,
Thiruvannamalai District.

...Respondent/Complainant

2.Mohammed Imram,
S/o.Mohammed Ali

... Respondents/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, seeking to call for the records and quash the FIR in Crime No.208 of 2014 on the file of the respondent police which registered under Sections 147, 148, 294 (b), 323, 324 and 506(ii) of IPC along with Section 3 of Prevention of Damage and Loss to Public Property Act, 1992 dated 23.05.2014.

For Petitioner : Mr.M.Karthik
For Respondent No.1 : Mr.S.Karthikeyan
Additional Public Prosecutor
For Respondent No.2 : No Appearance

O R D E R

This Criminal Original Petition has been filed praying to quash the FIR registered in Crime No.208 of 2014 on the file of the first respondent police, as illegal.

2. Heard Mr.M.Karthik, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent police. None appeared on behalf of the second respondent.

3. The averments found in the FIR disclose the case as at the time of occurrence, the petitioner herein by using the iron rod attacked the de facto complainant on his head. Further, in the public place, he abused the de facto complainant by using filthy words and also he made a life threat to the de facto complainant.

4. The said act committed by the petitioner has clearly discloses the prima facie case for the offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC along with Section 3 of Prevention of Damage and Loss to Public Property Act. Further, the truthfulness of the said occurrence has to be decided only at the time of trial.

5. At this juncture, it is necessary and useful 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."

6. Therefore, applying the ratio laid down in the above referred judgment, here it is a case, the truthfulness of the averments found in the F.I.R. has to be decided after securing the evidence collected in this case. Otherwise, the petitioner not indicated the abuse of process in registering the F.I.R. Hence, the petition filed by the petitioner deserves to be dismissed. Accordingly, this Criminal Original Petition is dismissed. However, since the FIR is pending from the year

2014, the first respondent police is directed to file a Final Report before the magistrate concerned, within a period of one month from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sri

To

1.The Inspector of Police,
Polur Police Station,
Thiruvannamalai District.

2.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.28948 of 2019 and
CrI.M.P.Nos.15489 & 15490 of 2019

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srg 09/12/2020