



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2020

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THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

Crl.O.P.(MD)No.15273 of 2020
and Crl.M.P.(MD)Nos.7381 & 7383 of 2020

Veeraputhiran

... Petitioner/Petitioner/Sole Accused

Vs.

1.The State rep by
The Deputy Superintendent of Police,
Pechiparai, Kanyakumari District.

2.The Inspector of Police,
Pechiparai Police Station,
Kanyakumari District.
(In Crime No.5 of 2019)

... Respondents 1 & 2/Respondents 1 & 2/Complainants

3.Jayachandran Karthik

... 3rd Respondent/3rd Respondent/Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the charge sheet in P.R.C.No.31 of 2019 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram and quash the same in respect of the petitioner as illegal.

For Petitioner: Mr.J.Lawrance

For R1 & R2 : Ms.S.E.Veronica Vincent,
Government Advocate.

ORDER

This criminal original petition has been filed to quash the charge sheet in P.R.C.No.31 of 2019 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram.

2.The learned counsel appearing for the petitioner would submit that the third respondent herein made a complaint before the second respondent by alleging that the petitioner herein is a Contractor and the third respondent worked under him, and the petitioner has to pay Rs.3,800/- to the third respondent towards wages. It is further



alleged that on 08.04.2019, when the petitioner was standing near a shop, the third respondent asked the wages due to him from the petitioner and due to the same, the petitioner abused him and attacked him. Based on the complaint, the second respondent registered a case in crime No.5 of 2019 for the offence under Sections 294(b), 323, 506(ii) IPC and subsequently, the second respondent altered the FIR by including Sections 3(1)(r), 3(1)(s) & 3(2)(va) of SC/ST (Prevention of Atrocities)Amendment Act, in view of the fact that the third respondent herein happened to be a scheduled caste community. Thereafter, the impugned charge sheet filed before the learned Judicial Magistrate No.II, Padmanabhapuram.

3.The learned counsel for the petitioner would submit that the impugned final report does not disclose nature and contents of the allegation against the petitioner to attract the commission of offence under provision of SC/ST Act. In the absence of specific details of allegation and contents used for abusing the third respondent, the impugned final report filed without any evidence. There is no evidence available to prove the offence under SC/ST Act and the statements of witnesses are also vague. He would further submit that the petitioner is prepared to face trial in respect of other offence.

4.The learned Government Advocate appearing for the first and second respondents, on instructions, would submit that the case has been posted for committal proceedings.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first and second respondents and perused the materials available in the records.

6.Admittedly, the FIR does not disclose any offence under SC/ST Act. One can include the offence under SC/ST Act, only when the complainant belongs to SC/ST community and only in the charge sheet the offence has been included. The verbatim used in the FIR and the charge sheet are contradictory. Hence, the impugned final report is quashed in respect of offence under SC/ST Act. The petitioner shall face the trial in respect of other offence. The learned Judicial Magistrate No.II, Padmanabhapuram shall proceed with the case in respect of other offences. Accordingly, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

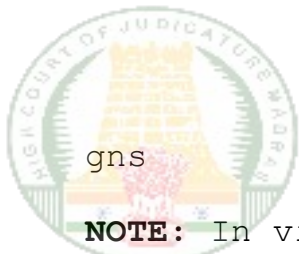
Sd/-

Assistant Registrar (RIT Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate No.II, Padmanabhapuram.
 - 2.The Deputy Superintendent of Police,
Pechiparai, Kanyakumari District.
 - 3.The Inspector of Police,
Pechiparai Police Station, Kanyakumari District.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc Mr.J.Lawrance, Advocate Sr.No.26750

CrI.O.P. (MD) No.15273 of 2020

21.12.2020

MJ (CO)

NR (09/02/2021) 3P : 6C