



1BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2020

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

WEB COPY

CrI.O.P.(MD).No.14982 of 2015
and
M.P.(MD).Nos.1 and 2 of 2015

Ayyappan ... Petitioner/Accused No.1

Vs.

N.Kulasekaran ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the case in Cr.M.P.No.248 of 2014 on the file of the learned Judicial Magistrate No.1, Tirunelveli, Tirunelveli District and quash the same in so far as the petitioner in concerned.

For Petitioner : Mr.S.R.Anand

For Respondent : No appearance

O R D E R

The petitioner herein who is a medical practitioner, is before this Court seeking to quash all the proceedings initiated against him by the respondent herein under Section 200 Cr.P.C.

2.In the complaint, it is alleging that at the instance of complainant's father, the petitioner herein has given wrong treatment to the complainant/respondent as if the complainant suffer from mental illness.

3.Stating that the said complaint is ill-conceived and no violation of any human rights or medical principle of conduct as alleged in the complaint, the petitioner seeks quash of the private complaint filed by the respondent.

4.When the matter was taken up for final disposal on 26.11.2019, this Court has passed the following order:

"The petitioner is shown as A1, in a private complaint filed by the respondent herein. To quash the said private complaint, this criminal original petition has been filed. Interim stay was granted.



2. When the matter was taken up for final hearing, it was noticed by this court that cognizance in this case is yet to be taken. The private complaint filed by the accused has not been taken on file. Cognizance of the offences has not been taken. The summons has not been issued. Therefore, at the pre-cognizance stage, the accused may not have a right as such.

3. However, on going through the entire complaint, I am of the view that substantial justice will have to be rendered in this case. The petitioner is a practicing Doctor, who had treated the respondent herein. The respondent herein appears to be having certain psychiatric issues. In view of the grant of stay by this court, the Court below has not proceeded with the matter.

4. Therefore, I lift the interim stay granted in this case, only for the purpose of enabling the learned Trial Magistrate to take a call in the matter. It is made clear that the learned Trial Magistrate will not permit the complainant to call any further witness. The learned Magistrate will peruse the complaint, his sworn statement and that of other witnesses already recorded and decide as to whether cognizance should be taken or not. If the learned Trial Magistrate comes to the conclusion that no ground has been made out for proceeding further in the matter and dismisses the complaint, this petition can be closed as infructuous. If the Magistrate decides to take cognizance of the offences and take the case on file, the petitioner would be at liberty to advance the arguments on merits for quashing the impugned complaint. Only for this purpose, the interim order earlier granted is lifted and the case shall be listed for final hearing on 02.01.2020."

5. Again when the matter came up for hearing on 03.03.2020, to ascertain the status of the case pending before the Judicial Magistrate No.1, Tirunelveli District, this Court passed the following order:

"The Registry is directed to get the status report from the learned Judicial Magistrate No.1, Tirunelveli District with regard to the action taken pursuant to the order of this court, dated 20.11.2019, in the private complaint filed by one



N.Kulasekaran, son of M.Namachivayam, which is a subject matter of Crl.O.P.(MD).No.14982 of 2015.

2.Post the matter on 13.03.2020"

6. The learned Judicial Magistrate No.1, Tirunelveli District has submitted status report to this Court vide his Document No.474 of 2020 dated 13.03.2020, wherein the Judicial Magistrate has reported about the status of the case as below stated;

"I Most humbly submits and informed that the private complaint filed by one N.Kulasekaran, S/O, M.Namachivayam in CRMP No.248 of 2014 of this Court was dismissed under Section 203 CRPC on 12.03.2020 as called for in the reference cited in D/No.474 of 2020 dated 13.03.2020"

7.In such circumstances, since the complaint itself has been dismissed, nothing survives in this criminal original petition. Hence, this criminal original petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

The Judicial Magistrate No.1,
Tirunelveli, Tirunelveli District.

Crl.O.P.(MD).No.14982 of 2015
18.03.2020

AP(28/05/2020) 3P 2C