



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.2066 of 2015

WEB COPY

N.Srithar

... Petitioner / Accused No.2

Vs.

1.The State,

Rep.through its Inspector of Police,
Kadayam Police Station,
Tirunelveli District.

(In Crime No.423 of 2013)

...Respondent-1/Complainant

2.Janaki

... Respondent-2 /Defacto

Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in STC No.772 of 2014 on the file of the learned Judicial Magistrate Court, Ambasamudram and quash the same.

For petitioner : MrF.X.Eugene

For Respondent No.1 : Mr.A.Robinson,

Government Advocate (crl.side)

ORDER

This criminal original petition has been filed to quash the impugned proceedings in STC No.772 of 2014 on the file of the Judicial Magistrate, Ambasamudram. The defacto complainant is one Janaki W/o. Vairava Nadar. The case of the prosecution is that on 17.09.2013 at about 07.30 P.M, due to political motive, the accused 1 to 4 threw stones and liquor bottles into the compound of the house of the defacto complainant. Based on the complaint of the defacto complainant, Crime No.423 of 2013 was registered. The same was investigated and final report was filed. The learned Judicial Magistrate, Ambasamudram took cognizance of the offence under Section 336 of IPC and issued summons to the petitioner herein. To quash the same, this criminal original petition has been filed by the petitioner who is figuring as A2.

2.Heard the learned counsel on either side.

3.The learned counsel for the petitioner would pointedly

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contend and even assuming that the entire case of the prosecution



as true, still the offence under Section 336 of IPC is not attracted. Section 336 of IPC reads as under :

"336.Act endangering life or personal safety of others.—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both."

4.As rightly pointed out by the learned counsel for the petitioner, Section 336 of IPC can be invoked only where there has been display of recklessness or negligence. In this case, the specific allegation is that stones and brandy bottles were thrown into the compound of the defacto complainant. By no stretch of imagination, Section 336 of IPC can be invoked. That apart, it is not the case of the defacto complainant, anybody was injured. At best, some annoyance could have been caused to the defacto complainant. I deem it fit and appropriate to invoke Section 95 of IPC. Section 95 of IPC states that an act causing slight harm should not be made for a cause of action. Section 95 of IPC reads as under :

"95.Act causing slight harm.—Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

5.In view of the above, I am of the view that continuation of the impugned prosecution is not warranted. Therefore, the same stands quashed. The criminal original petition is allowed. The benefit of this order will enure in favour of the non petitioning accused also. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Skm

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To

1.The Judicial Magistrate Court, Ambasamudram.

2.The Inspector of Police,
Kadayam Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.F.X EUGENE, Advocate (SR-9055[F] dated 28/02/2020)

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