



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.14736 of 2016

and

Crl.M.P. (MD)No.6909 of 2016

WEB COPY

1.K.S.Kanthappa
2.P.Selvakumar
3.M.Saravanan
4.K.Ganagaraj
5.K.Sakthivel @ Sakthi ... Petitioners/Accused No.11 to 15

Vs.

1.The State Rep. by
the Inspector of Police,
Koodalpudur Police Station,
Madurai City,
Madurai. ... 1st Respondent / Complainant

2.Ramayee ... 2nd Respondent / Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to grant an order of interim stay of the operations and all further proceedings of the impugned FIR in Cr.No.974 of 2016, dated 30.07.2016 on the file of the first respondent pending disposal of the above petition.

For Petitioners	: Mr.B.Saravanan
For R1	: Mr.A.Robinson
	Government Advocate (Crl.side)
For R2	: No appearance

ORDER

The petitioners are employees of Madurai Municipal Corporation. They stand accused in Crime No.974 of 2016 registered on the file of the Koodalpudur Police Station for the offences under Sections 294(b), 427 and 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998. To quash the impugned FIR as far as they are concerned, this criminal original petition has been filed.

2.The defacto complainant has been served and she entered appearance through counsel. There is no representation on her behalf today.

3.The learned counsel appearing for the petitioner pointed out that the defacto complainant Ramayee has been found to be in encroachment of a public street. Notice under the relevant provision of the Madurai City Municipal Corporation Act was issued against the defacto complainant on 20.07.2015 calling upon her to remove the encroachment in question. Since few others in the same street have also encroached of the same nature, they were also



served. Since the demand set out in the notice was not complied with, the petitioners went to the spot in question on 23.07.2015 and removed the encroachment. In fact, the photographs were taken while the encroachments were being removed.

4. The defacto complaint herein thereafter got the impugned FIR registered against the petitioners herein. It is seen that the defacto complainant had made allegations in such a way so as to bracket the petitioners herein along with some of the local notorious elements.

5. I am satisfied that the implication of the petitioners herein in the said impugned FIR is patently unjustified.

6. The learned counsel appearing for the petitioners drew my attention to Section 79 of the Indian Penal Code. The said provision reads as follows:-

"79. Act done by a person justified, or by mistake of fact believing himself justified, by law

Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it."

7. In the case on hand, the competent authority under the local body had issued notice to the defacto complainant calling upon her to remove the encroachment in question. The demand was not complied with. The petitioners were instructed to remove the encroachment in question. The petitioners merely carried out the mandate issued by the administrative superior. The petitioners were justified by the relevant provisions of the Madurai City Municipal Corporation Act, 1971, to remove the encroachment in question. The act of the petitioners is duly justified by law. Therefore, the petitioners cannot be saddled with penal liability for merely carrying out the statutory mandate. Encroachment of a public street is illegal. All that the petitioners have done is to clear the encroachment. To make the petitioners face the criminal proceedings for carrying out a legal mandate, can only be characterized as an abuse of legal process. The impugned FIR stands quashed as far as the petitioners are concerned. Hence, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



12.02.2020

To

1.The Inspector of Police,
Koodalpudur Police Station,
Madurai City,
Madurai.

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

+1 CC to M/s.B.SARAVANAN, Advocate (SR-6517[F] dated 14/02/2020)

Cr1.O.P (MD) No.14736 of 2016
and
Cr1.M.P. (MD) No.6909 of 2016
13.02.2020

SMA/03/06/2020/3P/4C