



WEB COPY

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CRL.O.P.(MD)NO.15390 OF 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD)No.15390 of 2016

and

CRL.M.P. (MD)Nos.7281 & 7282 of 2016

S.Ganeshan

... Petitioner/Accused

Vs.

1. The Inspector of Police,
Nilakottai police station,
Nilakottai.
(Crime No.304 of 2012)

2. G.Ramalakshmi,
Steno,
District Munsif Court,
Nilakottai.

... 2nd Respondent/Defacto complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records and quash the charge sheet in C.C.No.187 of 2013 on the file of the Judicial Magistrate Court, Nilakottai.

For Petitioner	: Mr.H.Lakshmi Shankar
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side).
For R-2	: No appearance.

* * *

O R D E R

The petitioner is figuring as the sole accused in C.C. No.187 of 2013 on the file of the Judicial Magistrate, Nilakottai.

2. The second respondent is the defacto complainant. She has been served and her name is also printed in the cause list, there is no appearance on her behalf.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the first respondent.

4. The petitioner's counsel reiterated the contentions set out in the memorandum of grounds and wanted this Court to quash the impugned proceedings.



5. Per contra the learned Government Advocate(Crl. Side) submitted that the inherent powers of this Court cannot be invoked in this case. The petitioner will have to be necessarily relegated to move the Court below for relief.

6. I carefully considered the rival contentions and went through the materials on record.

7. It is seen that the petitioner was a litigant before the District Munsif Court, Nilakottai in O.S.No.36 of 2012. He was the second defendant in the said suit. He appears to have filed I.A. and the same was disposed of on 04.10.2012. The petitioner wanted a certified copy of the same. The certified copy was issued. It contains certain apparent errors. The petitioner thereupon filed a memo seeking correction. Instead of issuing a fresh certified copy, according to the petitioner, the second respondent removed the defective page and substituted the same with a fresh one. This was strongly objected by the petitioner herein. The petitioner is said to have told her that he will lodge a complaint before the High Court on the administrative side. The petitioner actually filed a complaint on 22.11.2012 in this regard.

8. The case of the petitioner is that after the second respondent herein came to know about the same, she lodged a complaint leading to registration of Crime No.304 of 2012 before Nilakottai police station as if the petitioner abused her and obstructed her from discharging the official duties, Crime No.304 of 2012 was registered and interestingly final report was also filed on the very same day. Cognizance of the offences under Sections 294 (b), 353 and 506(i) of I.P.C. was taken and the same was taken on file in C.C.No.187 of 2013. Summon was also issued to the petitioner herein.

9. Even before commencing his submissions, the petitioner's counsel on instructions stated that he does not have any subsisting grievance against the defacto complainant and that he will not pursue the complaint that he had earlier given. He would like to treat the entire issue as closed. The said submission is placed on record.

10. I am satisfied that the impugned prosecution is a direct counter blast to the complaint given by the petitioner against the defacto complainant. The Hon'ble Supreme Court in the decision reported in AIR 1993 SC 1348 (State of Haryana and others V. Ch.Bhajan Lal and others) has held that if the Court comes to the conclusion that the impugned prosecution is attended by *mala fides*, then it can quash the same. I am satisfied that the aforesaid decision is squarely applicable to the case on hand.



11. Even according to the defacto complainant, the occurrence had taken place on 21.11.2012. But the complaint was lodged only on 01.12.2012. While there was a delay of more than 9 days in lodging the second First Information Report, final report was filed on the very same day (i.e.,) on 01.12.2012. The speed with which the police have acted in the matter is quite revealing.

12. Even according to the complainant, the petitioner had only threatened her that he would lodge a complaint against her before the superior officer.

13. It is beyond dispute that the petitioner was a litigant. It is also beyond dispute that he had some issue regarding issuance of the certified copy. Therefore, the conduct of the petitioner cannot attract the penal provisions. In this view of the matter, the very initiation of the impugned prosecution against the petitioner is an abuse of legal process. Therefore, the impugned prosecution stands quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate,
Nilakottai.
2. The Inspector of Police,
Nilakottai police station,
Nilakottai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-9385[F] dated 28/02/2020)

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