



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 19.02.2020

PRESENT

THE HON`BLE **MR. JUSTICE G.R. SWAMINATHAN**

Crl.O.P(MD).No.15418 of 2016

and

M.P(MD).Nos.7293 and 7294 of 2016

WEB COPY

- 1.Peter
- 2.Chinnappan
- 3.Maria Soosai
- 4.Arul Maria Soosai
- 5.Gilbert
- 6.Kennady
- 7.Nallathambi Arockiaraj
- 8.Martin Di Porus
- 9.Yagapparaj

... Petitioners/Accused Nos.1 to 9

Vs

Alagar

... Respondent / Complainant

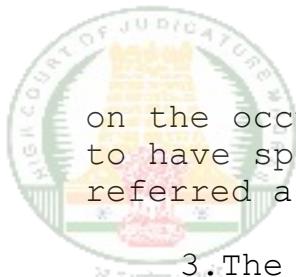
PRAYER : Petition is filed under Section 482 of Cr.P.C to call for the records in C.C.No.42 of 2016 on the file of the II Additional District Munsif cum Judicial Magistrate, Kumbakonam, Thanjavur District and quash the proceedings as against the petitioners.

For Petitioners : Mr.A.Thiruvadikumar
For Respondent : No appearance

ORDER

The petitioners are facing trial in C.C.No.42 of 2016 on the file of the II Additional District Munsif-cum-Judicial Magistrate, Kumbakonam, Thanjavur District, for the offences under Sections 294 (b), 295(A) (wrongly typed as 294(A)) and 506(ii) IPC. The respondent is the complainant. The respondent is said to have given a police case earlier and it was investigated and closed as a mistake of fact. Thereafter, the impugned private complaint has been instituted.

2.The case of the complainant is that the Christians are majority in the village of Ammanpettai in Thiruvidaimaruthur Taluk. The Hindus are in a minority. The grievance of the respondent is that the Christians have put up a compound wall around their graveyard, thereby obstructing the traditional pathway rights. This appears to have given raise to a dispute between the complainant on the one hand and the first petitioner on the other. The specific allegation of the complainant is that at the instance of the first petitioner, he was arrested and remanded. He would also allege that



on the occurrence date ie., 12.07.2015, the first petitioner is said to have spoken ill of the complainant. The complainant was allegedly referred as a poisonous virus and that it should be done away with.

3.The learned trial Magistrate has taken cognizance of the offences under Sections 294 (b), 295(A) (wrongly typed as 294(A)) and 506(ii) IPC.

4.As rightly pointed out by the learned counsel appearing for the petitioners, to take cognizance of the offence under Section 295 (A) of IPC, sanction of the Government in terms of Section 196 Cr.P.C is required. Eventhough such a sanction was not available, cognizance still has been taken.

5.The petitioners' counsel, on instructions, states that the complaint given against the complainant herein in Crime No.270 of 2015 will also be given a quietus by the petitioners herein.

6.I am of the view that a civil dispute has acquired needless communal and criminal overtones. The petitioners' counsel has rightly pointed out a statutorily threshold bar for taking the complaint on file. Since the petitioners have also agreed to close the complaint against the complainant herein, I am of the view that the interest of justice will be better served by quashing the impugned proceedings. Accordingly, the impugned proceedings in C.C.No.42 of 2016 on the file of the II Additional District Munsif-cum-Judicial Magistrate, Kumbakonam, Thanjavur District is quashed. This Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

To

1.II Additional District Munsif-cum-Judicial Magistrate,
Kumbakonam, Thanjavur District.

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

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-7572[F]

ORDER IN

Crl.O.P(MD).No.15418 of 2016

SMA/02/06/2020/2P/4C

<https://hcservices.ecourts.gov.in/hcservices/>