



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)No.16283 of 2016

1.Meera Sahib
2.Mannan Mohamed
3.Ramdoss ... Petitioners/Accused No.1 to 6

vs.

1.State Rep. by
The Inspector of Police,
Kalakadu Police Station,
Tirunelveli District.
Crime No.143 of 2011) ... 1st Respondents/Complainant

2.Subramanian ... 2nd Respondents/Defacto Complainant

PRAYER: Criminal original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.330 of 2012, on the file of the learned Judicial Magistrate, Nanguneri and quash the same as illegal and unjust.

For Petitioners : Mr.S.A.Ajmal Khan

For R1 : Mr.R.Anandharaj

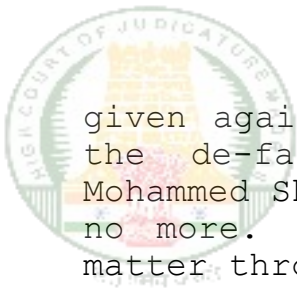
Additional Public Prosecutor
For R2 : No Appearance

ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the State.

2.This petition has been filed to quash the criminal complaint given by one Subramanian/second respondent herein alleging that he was abused and assaulted by these petitioners in the school premises in front of other staff of the school.

3.The learned counsel appearing for the petitioners would submit that it is a motivated case in order to settle scope with the petitioner regarding the management of the school. One Mohammed Shaffi, who is the friend of the de-facto complainant, wants to take over the administration of the school and hence, the complaint was



given against these petitioners. He would further submit that now the de-facto complainant/Subramanian has left the school and Mohammed Shaffi, who was an instrument for giving this complaint, is no more. Therefore, there is every possibility of settling the matter through the mediation.

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4.The learned counsel appearing for the second respondent is not present today.

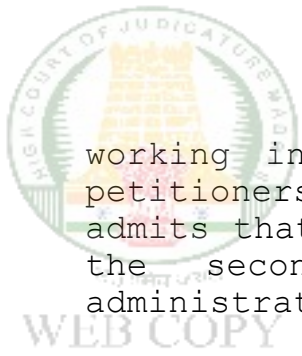
5.When the matter was listed on 0.03.2020 (i.e.,) pre-COVID-19 situation, after hearing the learned counsel for the petitioners, this Court posted the matter for orders, since the learned counsel for the second respondent/de-facto complainant did not appear. Thereafter, it was again adjourned to 17.03.2020 and on that day also, there was no representation for the second respondent. After COVID-19 lock down, this matter was posted for final disposal through Video Conferencing on 28.05.2020. In spite of intimation given to the second respondent's counsel, he was not present to participate in the proceedings. Hence, the matter is posted today for hearing in the open Court. The learned counsel for the petitioners is present. The learned counsel for the second respondent again failed to appear.

6.In the above said circumstances, this Court has taken up the matter for final disposal and heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the first respondent.

7.The learned counsel for the petitioners would submit that there was a longstanding dispute between the second petitioner and his cousin/Mohammed Shaffi regarding the management of K.A.M.P.Meeraniya Higher Secondary School and K.A.M.P. Meeraniya Middle School. In order to pressurize the second petitioner, the said Mohammed Shaffi motivated the de-facto complainant to give a false complaint as if an untoward incident happened at higher secondary school premises on 10.06.2011. The narration of the complaint and the statements of the witnesses per se disclose that no criminality is made out against these petitioners and it is purely an outcome of imagination.

8.This Court gave anxious consideration to this submission made by these petitioners and went through the statements recorded under Section 161 of Cr.P.C., by the investigation agency relied in support of the State prosecution.

9.The police has taken up the investigation based on the complaint given by one Subramanian narrating the incident of assault and abuse by these petitioners. The first and second petitioners are brothers and the third petitioner is the peon in the school, administered by the first and second petitioners. The de-facto complainant is the secondary grade teacher



working in K.A.M.B. Meeraniya Middle School administered by the petitioners 1 and 2. In his complaint, the de-facto complaint admits that he is a friend of Mohammed Shaffi, who is the cousin of the second petitioner and rival claimant of the school administration.

10.The 161 of Cr.P.C., statements of the de-facto complainant as well as Mohammed Shaffi reveal that they are very close friends and Mohammed Shaffi was in loggerhead with the second petitioner regarding the administration of the educational institute namely, the K.A.M.B. Meeraniya Middle School and K.A.M.B. Meeraniya Higher Secondary School. The writ petition, suits and proceedings before the education authorities, were pending at that point of time. In the said circumstances, this complaint has been given and the same has been registered and investigated and the final report is being filed against these petitioners. The statement of the Doctor who has treated the de-facto complainant has certified that the injury on the body of the de-facto complainant was simple in nature. This statement does not indicate the seat of injury. Though the statements of many witnesses have been recorded as if they were witnesses to the occurrence and they were all staff of higher secondary school appointed during the management of the Mohammed Shaffi. On the whole, on appreciation of the statements given by the witnesses about the material facts, this Court finds that the statements of this witnesses, which are parrot like in nature, even if it is deposed before the Court, will not inspire the confidence of the presiding officer.

11.For the said reasons, the impugned proceedings in C.C.No.330 of 2012 stands quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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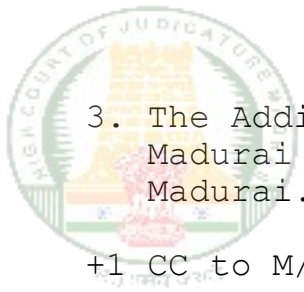
/ /2020

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate, Nanguneri.

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



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

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-13060[F] dated 03/06/2020)

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SPU (10.06.2020) 4P-5C