



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.21216 of 2016

and

Crl.M.P.(MD)Nos.10852 and 10853 of 2016

R.Lakshmanan ... Petitioner/Accused No.1

Vs

1.The Inspector of Police,
Mukkudal Police Station,
Tirunelveli District.
(Crime No.44 of 2012)

... Complainant/1st Respondent

2.Murugan ... Defacto Complainant/ 2nd Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records to quash the part and parcel of charge sheet in C.C.No.21 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli so far as the petitioner/Accused No.1 alone and quash the same as illegal, improper, unlawful, unconstitutional and arbitrary.

For Petitioner: Mr.A.P.Muthupandian

For R1 : Mrs.M.Ananthadevi,
Government Advocate (Crl.Side)

For R2 : Mr.B.Tamilnidhi

ORDER

This petition has been filed for quashing the proceedings in C.C.No.21 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli.

2.The learned counsel for the petitioner would submit that even as per the FIR on 27.02.2012, at 09.30 p.m, the defacto complainant, who is a Councilor of Mukkudal were standing and chatting in front of the defacto complainant's shop. At that time, the accused Nos.2 to 4 came to the said shop and used filthy language against the defacto complainant and attacked him with Iron rod and wooden log. Thereby he sustained injuries and he was admitted in the Government Hospital, Ambasamuthiram. Thereafter, a case has been registered in Crime No.44/2012 by the first respondent police for the offence



under Sections 294 (b), 323, 324 and 506 (ii) of IPC. After completion of investigation, they filed a final report and the same has been taken cognizance in C.C.No.21 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli.

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3.He would further submit that duo to the previous enmity regarding to election motive between the petitioner and the 2nd respondent herein, a false case has been foisted as against the petitioner. The 1st respondent also mechanically registered the case in Crime No.44/2012 and filed final report in C.C.No.21 of 2016. There is no specific averments as against the petitioner and no material to attract any of the offence as alleged by the prosecution. Even as per the FIR, the accused Nos.2 to 4 scolded the defacto complainant with filthy language and attacked him with wooden log and Iron rod and caused injuries to him. In respect of the petitioner is concerned, he only instigated the other accused persons to commit the crime against the 2nd respondent herein. He further submitted that the petitioner was not present in the place of occurrence and he did not commit any offence as against the 2nd respondent. While being so, without any material, the petitioner was impleaded as an accused.

4.He would further submit that even according to the 2nd respondent, A2 to A4 were presented in the place of occurrence and they attacked him with Iron rod and wooden log. On assumption that they were attacked the 2nd respondent only on the instigation of the 1st accused viz., the petitioner herein. To corroborate this allegation, no material is produced by the prosecution. Admittedly, there was a previous enmity regarding to election motive between the petitioner and the 2nd respondent herein and as such, the petitioner was impleaded as an accused. Only on the basis of election motive, the present case has been registered as against the petitioner. Though the 2nd respondent alleged that only on the instigation of the petitioner herein, the other accused have attacked the defacto complainant, the 1st respondent police has not registered any offence as against the petitioner herein under IPC. Therefore, the entire proceedings cannot sustain as against the petitioner. Hence, he prayed for quashing the entire proceedings.

5.Per contra, the learned counsel appearing for the 2nd respondent would submit that there are totally 4 accused. The petitioner is arrayed as 1st accused. Duo to the election motive, the 1st accused instigated the other accused to commit the crime. Accordingly, the accused Nos.2 to 4 scolded the 2nd respondent with filthy language and also attacked him with iron rod and wooden log and therefore, he sustained injuries. Hence, he prayed for

<https://hcservices.eccourts.gov.in/hcservices/> dismissal of this petition.



6. The learned Government Advocate (Crl.Side) would submit that there are totally 4 accused. The petitioner is arrayed as 1st accused. Duo to election motive, the 1st accused instigated the others to commit the crime. Accordingly, the accused Nos.2 to 4 scolded the 2nd respondent with filthy language and also attacked him with iron rod and wooden log. Therefore, he sustained injuries. Therefore, the petitioner has specific overt act to attract the offences under Sections 294 (b), 323, 324 and 506 (ii) of IPC. and prayed for dismissal of this petition.

7. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

8. There are totally 4 accused. The petitioner is arrayed as 1st accused. According to the case of the prosecution, on 27.02.2012, at about 09.30 p.m, when the 2nd respondent and another person were standing and chatting in front of the defacto complainant's shop, the accused Nos. A2 to A4 came to the place of occurrence and scolded him with filthy language and attacked him with iron rod and wooden log. Thereby, he sustained injuries and he was admitted in the Government Hospital, Ambasamuthiram. On perusal of the statements recorded under Section 161 Cr.P.C., only on the instigation of the petitioner, A2 to A4 went to the place of occurrence and scolded the defacto complainant with filthy language and also attacked him with Iron rod and wooden log. Therefore, he sustained injuries and he was admitted in the hospital. Though there was election dispute between the petitioner and the 2nd respondent, there is absolutely no prima facie evidence to connect the petitioner with the alleged crime. There is no prima facie evidence to show that the petitioner instigated the other accused to attacked the defacto complainant. Further, no one has spoken about the overt act of the petitioner and no material has been produced by the prosecution to attract the offence as alleged by the prosecution as against the petitioner herein. There are specific overt act insofar as the other accused persons are concerned. Further, it is seen from the statement of one of the witness that only due to the election dispute between the petitioner and the 2nd respondent, a false case has been foisted as if, only on the instigation of the petitioner the other accused have committed crime. Therefore, when prima facie materials are absent against the petitioner, the proceedings against the petitioner cannot be sustained. Further, only based on the suspension of the 2nd respondent, the petitioner was added as an accused. Therefore, admittedly, there is no material to connect the petitioner that only on the instigation of the petitioner, the other accused have committed crime. Therefore, the entire proceedings is nothing but clear abuse of process of law as against the petitioner



herein. Therefore, the petitioner need not to go for ordeal of trial. No offence is laid down as against the petitioner even according to the 2nd petitioner herein.

9. In view of the above discussion, the proceedings in C.C.No.21 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Cheranmahadevi, Tirunelveli, is hereby quashed as against the petitioner herein. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif cum Judicial Magistrate Court,
Cheranmahadevi,
Tirunelveli,

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

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

Crl.O.P. (MD)No.21216 of 2016
and

Crl.M.P. (MD)Nos.10852 and 10853 of 2016
12.10.2020

CK(CO)

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