



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

Date : 02/12/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.22935 of 2016

and

Crl.M.P. (MD) No.12035 of 2016

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1. A.Manivannan

2. V.Vadivel

... Petitioners

.Vs.

A.Vasu

... Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in pursuant to the Private complaint in C.C.No.81 of 2012 on the file of the learned Judicial Magistrate, Musiri and quash the same.

For Petitioners : Mr.G.Thalaimutharasu

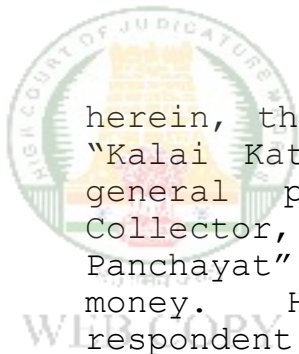
For Respondent : No appearance

O R D E R

This Criminal Original Petition is filed to quash the private complaint in C.C.No.81 of 2012 on the file of the learned Judicial Magistrate, Musiri.

2. The learned counsel for the petitioners would submit that there is no specific averment as against the petitioners to attract the offence under Section 500 I.P.C. In fact, on the complaint lodged by the respondent, the District Collector conducted a detailed enquiry and passed the order, saying that there is no misappropriation of Panchayat Union Funds by the petitioners herein. In fact, the respondent before lodging this impugned complaint, filed a writ petition in W.P.(MD)No.8693 of 2012, before this Court, challenging the said proceedings and the same was dismissed on 09.07.2012. After dismissal of the writ petition, immediately, i.e. 10.07.2012, the respondent filed the private complaint, suppressing the fact that the writ petition was already dismissed.

3. The learned counsel for the petitioners would submit that the offence is alleged to the misappropriation of Panchayat fund and the same was distributed by the Block Development Officer as per the order signed by the District Collector. In respect of allotment of "Thokuppu Houses", the District Collector and the Block Development Officer are the competent authorities to allot to the beneficiaries. Therefore, the petitioners had no role to play in the allotment of houses. He would further submit that according to the respondent



herein, the third petitioner only published in the magazine called "Kalai Kathir", stated that the petitioners 1 and 2 along with general public submitted representation before the District Collector, Trichy, in which, the respondent conducted "Katta Panchayat" and also threatened the petitioners to extract more money. He would also submit that in the complaint that the respondent intended to lock the panchayat office and also demanded 20% of money from the Panchayat fund. Therefore, the petitioners 1 and 2 sought for appropriate action as against the respondent herein. Even assuming that in the said complaint lodged by the petitioners, those allegations are not defamatory one and when the respondent made so many allegations as against the petitioners in respect of misappropriation of panchayat fund, the petitioners also lodged a complaint to take action as against the respondent herein. Therefore, the petitioners are no way liable to be held for the offence under Section 500 I.P.C. as alleged by the respondent herein and prayed for quashment of the proceedings.

4. Though notice was served, name printed, none appeared for the respondent. Heard the learned counsel for the petitioners and perused the materials available on record.

5. It is seen that there are totally three accused, in which, the petitioners are arrayed as A1 and A2. While they were as President and Vice President of Kudundurai Panchayat, Musiri Circle, Trichy District. The third accused published a news item in the 'Kalai Kathir' magazine as if the first and second accused submitted a representation before the District Collector, Trichy, for taking appropriate action as against the respondent. In the complaint, A1 and A2 alleged that the respondent herein conducted 'Katta Panchayat' and demanded money from the Panchayat and also demanded 20% of the Panchayat money in his favour. Though news item stated that the petitioners lodged a complaint before the District Collector, the respondent did not produce the said complaint, to prove the same. The respondent before filing this impugned complaint, filed a writ petition in W.P.(MD)No.8693 of 2012, before this Court challenging the said proceedings and the same was dismissed on 09.07.2012 and the relevant portion of the order which reads as follows:

"5. I am of the considered view that the present Writ Petition is liable to be dismissed on the following reasons:

The petitioner seems to be the rival candidate in the election conducted for the post of Panchayat President at Kodunthurai Panchayat. The petitioner seems to have lost in the election and hence, he is trying to take revenge on the fourth respondent.

Even otherwise, on a complaint given by the petitioner to the second respondent, the second respondent issued a charge memo to the fourth respondent. The Law will take its own course and the petitioner cannot insist respondents 1 to 3 to



The petitioner has not stated how he is an affected person so as to lay the present Writ Petition. Merely because he has given a complaint against the fourth respondent. Not even in the affidavit, it has been stated that in what way, he was an affected person."

WEB COPY

6. It also reveals that the respondent is none other than the rival candidate of the first petitioner herein for the post of Panchayat president and lost in the election. Immediately, after dismissal of the writ petition on 09.07.2012. The respondent lodged the present complaint on 10.07.2012. Therefore, the present complaint itself is nothing but clear abuse of process of law and no offence is made out as against the petitioners to attract the offence under Section 500 I.P.C.

7. In view of the above, this Criminal Original Petition is allowed and the proceedings in C.C.No.81 of 2012 on the file of the learned Judicial Magistrate, Musiri, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

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 Judicial Magistrate, Musiri.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.G.THALAI MUTHARASU, Advocate SR-24016.

CRL OP(MD) No.22935 of 2016

Date : 02/12/2020

KVN(CO)

CS(23.12.2020) 3P 4C

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