



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Crl.O.P(MD).No.3897 of 2016

and

Crl.M.P.(MD)Nos.1969 and 1970 of 2016

1.Sivakumar

2.James Jeyaraj

... Petitioners/Accused No.1 & 2

Vs.

1.State Rep. by

The Inspector of Police,

Airport Police Station,

Trichy.

(Crime No.72 of 2015)

... Respondent/Complainant

2.K.R.V.Selvam

...Respondent/De-facto Complainant

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records of C.C.No.2 of 2016, on the file of the learned Judicial Magistrate No.VI, Trichy, quash the same.

For Petitioner : Mr.C.T.Perumal

For R1 : Mr.A.Robinson

Government Advocate Crl. Side)

For R2 : Mr.V.Muthumani

for Mr.R.Senthilkumar

ORDER

The petitioners are figuring as Accused in C.C.No.2 of 2016, on the file of the learned Judicial Magistrate No.VI, Trichy, for the offences under Section 406 of IPC. The second respondent herein is the de-facto complainant. To quash the same, this Criminal Original Petition has been filed.

2.Heard the learned counsel on either side.

3.It is not in dispute that the petitioners were originally employed in a company by name ACT India Limited. The said company is engaged in the business of servicing motor vehicles. It appears that the de-facto complainant used to leave his vehicles in the workshop of the said company for servicing. It appears that the de-facto complainant owed to pay some amount towards service charges. While so, one more Tipper Lorry bearing Reg.No.TN-63-AV-5995 was left by the de-facto complainant in the said workshop. Even though servicing was completed, the vehicle was not released to the de-facto complainant on the ground that the old arrears will have to be settled. That led to the lodging of Crime No.72 of 2015 for the offences under Section 406 of IPC before the first respondent



herein. The case was investigated and final report was filed and cognizance of the offences was also taken.

4.It is not in dispute that the petitioner has since taken back the vehicle. The cause which led to the lodging of the impugned criminal proceedings is no longer surviving. The grievance of the second respondent has since been addressed.

5.As rightly contended by the petitioners' counsel, the petitioners were merely employees of ACT India which had transaction with the second respondent. The petitioners were only carrying out their duties as employees of the said company. They had no personal stake in the matter. In any event, if as alleged by the petitioners, the second respondent owed to pay some amount as arrears towards service charges, certainly the vehicle left by him for service can be retained as lien. Therefore, such intention cannot be made the subject matter of criminal complaint. Therefore, I find that the very institution of the criminal proceedings against the petitioners herein is an abuse of legal process. The petitioners' counsel clearly states that they have left the employment of ACT India and that they have no claim whatsoever against the second respondent herein.

6.Recording the said submission, I am of the view that continuing the impugned prosecution would only amount to abuse of legal process. In this view of the matter, the impugned prosecution stands quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

sjj
To

1.The Judicial Magistrate No.VI, Trichy.

2.The Inspector of Police,
Airport Police Station, Trichy.

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

+1 CC to M/s.C.T.PERUMAL, Advocate (SR-185[F] dated 03/01/2020)

Crl.O.P(MD). No.3897 of 2016

03.01.2020

SMA/28/01/2020/2P/5C