



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:10.12.2020

CORAM

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

Crl.O.P.(MD).No.14531 of 2017

and

Crl.M.P.(MD).Nos.9681 and 9682 of 2017

WEB COPY

1.A.Victor Selvaraj

2.G.Arunothaya Selvi

... Petitioners

Vs

1.The Inspector of Police,
Puliankudi Police Station,
Tirunelveli District.
(Crime No.480/14)

2.J.Suyambulingam

... Respondents.

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.153 of 2016 on the file of the District Munsif cum Judicial Magistrate, Sivagiri and to quash the same as against the petitioners.

For Petitioners : Mr.S.C.Herold Singh

For 1st Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl. Side)

For 2nd Respondent : Mr.C.Jeganathan
for M/s.Veera Associates

ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.153 of 2016 on the file of the District Munsif cum Judicial Magistrate, Sivagiri, as against the petitioners.

2.The learned Counsel appearing for the petitioners submitted that totally there are six accused in this case in which, the petitioners have been arrayed as A5 and A6. According to the second respondent, the second respondent is the secretary and head master of the T.N.Pudukudi Suyambulingam Primary School, it is Government aided school. The second petitioner was appointed as a Secondary Grade Teacher during the year 2002 in the second respondent's school. Initially the second petitioner was working in Government school, due to deployment, she was transferred and posted to the second respondent's school. While being so, the allegation as

against the second petitioner is that she has not cooperated with the management and her acting prejudicial to the interest of the students. She was suspended from service and also charge memo issued to her, which was challenged before this Court in W.P.(MD).No.5509 of 2009 and this Court in M.P.(MD).No.1 of 2009 in W.P.(MD).No.5509 of 2009, by order dated 20.08.2009, stayed the impugned suspension order and the writ petition is pending. According to the second respondent, the second petitioner did not file any explanation for the charge memo levelled against her and also did not file any application for salary and failed to furnish her service register. While being so, on 16.09.2013, around 02.00 p.m on the instigation of the petitioners herein, the accused persons 1 to 4 have trespassed into the second respondent's school and prevented the teachers from discharging their duties and also prevented the student pursuing their studies. When it was questioned by the second respondent, A1 to A4 threatened him with dire consequences and also demanded a sum of Rs.1 lakh for non payment of salary to the second petitioner herein. Therefore, the second respondent has lodged a complaint before the first respondent and the same has been registered in Crime No.480 of 2014 for the offence under Sections 109, 147, 448, 353, 341, 348 and 506(i) of IPC. After completion of investigation, the first respondent has filed final report and the same has been taken cognizance in C.C.No.153 of 2016 on the file of the District Munsif cum Judicial Magistrate, Sivagiri. He further submitted that the alleged occurrence said to have taken place on 16.09.2013 and the complaint was given only on 02.11.2014. Hence, he prayed to quash the proceedings.

3.The learned counsel appearing for the second respondent submitted that the second petitioner, while she was working as Secondary Grade Teacher under the second respondent school, assaulted the Additional Assitant Elementary Educational Officer, Vasudevanallur and also committed misconduct and also acted against the interest of the teacher and institution and she had not followed all the rules and regulations under the provisions of the Tamil Nadu Schools and Regulation Act. He further submitted that the second petitioner without following the directions of the authorities, she has not cooperated with the teachers and students. Hence, the second respondent suspended the second petitioner from service on 26.06.2009. Due to which, the first petitioner along with other accused persons trespassed into the second respondent's school and threatened the second respondent with dire consequences and also demanded a sum of Rs.1 lakh for non payment of salary to the second petitioner herein. Hence, he prayed to dismissal of this petition.

4.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the first respondent Police and the learned counsel appearing for the second respondent.

5.On perusal of the records, it is seen that the second

respondent was working as a Secondary Grade Teacher in the second respondent's school and it is a private and Government aided school and second petitioner was transferred to this school, due to deployment from the Government School. Therefore, the second petitioner suffered by the management of the second respondent's school finally she was suspended with charge memo and the same was challenged before this Court in W.P.(MD).No.5509 of 2009 and by order dated 20.08.2009 stayed the suspension order. While being so, the second respondent, without paying subsistence allowance or any salary to the petitioner, lodged a complaint with the above said allegations. Even according to the second respondent, on the instigation of the petitioners herein, A1 to A4 trespassed into the second respondent's school and threatened him with dire consequences.

6.On perusal of statements recorded under Section 161(3) Cr.P.C., it is seen that the alleged occurrence was taken place on 16.09.2013, whereas the complaint lodged only on 02.11.2014. Therefore, there is no explanation or reasons for the delay in lodgment of the complaint by the second respondent. The impugned proceedings has been initiated as against the petitioners only due to wreck vengeance as against the petitioners and nothing else. It is also seen that the second petitioner challenged the suspension order and charge memo before this Court and obtained order of stay. Insofar as the first petitioner is concerned, he is none other than the husband of the second petitioner and he is no way connected with the alleged occurrence and no averments as alleged as against him. Even as against both the petitioners, charge is that they instigated A1 to A4 and they trespassed into the second respondent's school and threatened the second respondent with dire consequences. Except bald allegation, there is no specific overt act attributed as against the petitioners. Therefore, no offence is made out as against the petitioner as alleged by the second respondent herein. Without application of mind, the first respondent has mechanically filed the final report. Therefore, the impugned proceeding is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners.

7.Accordingly, this criminal original petition is allowed and the proceeding in C.C.No.153 of 2016 on the file of the District Munsif cum Judicial Magistrate, Sivagiri, is hereby quashed in respect of the petitioners. Consequently, the connected criminal miscellaneous petitions are closed.

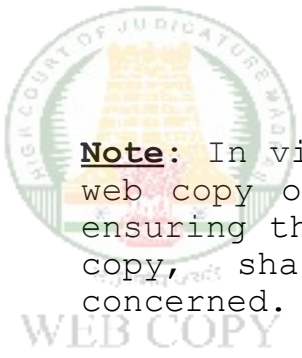
Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)



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,
Sivagiri.
- 2.The Inspector of Police,
Puliankudi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.Veera Associates, Advocate (SR-25057[F] dated
11/12/2020)

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