



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	05.11.2020
Date of Order	27.11.2020

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.OP(MD)No.6237 of 2017

and

Crl.MP(MD)No.4198 of 2017

1.Muthaiyasami @ Katta Muthaiah
2.Valangathal
3.Manikandan
4.Madasamy Thevar : Petitioners/A1 to A4

Vs.

1.State represented by
The Inspector of Police,
Achanpudur Police Station,
Tirunelveli District.
(Crime No.63 of 2016) : R1/Complainant

2.Dhanasekaran
Head Constable/T.P.998,
Achanpudur Police Station,
Tirunelveli District. : R2/De-facto Complainant

Prayer: Criminal Original Petition filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in C.C No.501 of 2016 pending on the file of the Judicial Magistrate, Shenkottai, Tirunelveli District and quash the same as illegal and unsustainable in law and pass such further or other orders.

For Petitioner : Mr.K.Sivabalan
for Mr.S.Balamurugan

For Respondents : Mr.K.Karmegam
Government Advocate
(Criminal side)

O R D E R

(Thro' VC)

This Criminal Original Petition is filed to quash the case in C.C No.501 of 2016 pending on the file of the Judicial Magistrate, Shenkottai, Tirunelveli District.

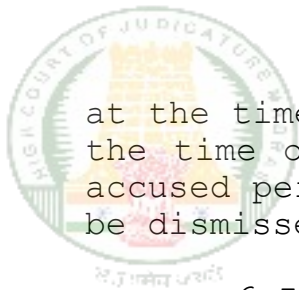


2.The case of the prosecution is that on 11.06.2014, the 1st petitioner went abroad and returned to his native place, at that time on 02.04.2016 at about 8.30 am, the de-facto complainant along with one police constable went to the 1st petitioner's house to serve summon, but the 1st petitioner along with other petitioners refused to receive the summon, uttering them in dirty language in public place and restrained them from discharging their official duty.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.The learned counsel appearing for the petitioners/A1 to A4 submitted that the charge sheet laid with an ulterior motive to wreck vengeance against the petitioners with a malicious intention to implicate in this case and this false case has been initiated with a view to spite them due to personal vengeance, as the de-facto complainant had personal enmity with the 1st petitioner and even as per the First Information Report, there was no motive in the said occurrence, except the vague and general allegations and an unexplored story was cooked up against the petitioners due to personal grudge for the litigations and the respondents police acted in their whimsical reasons and laid a charge sheet based on the false complaint and the harried manner of investigation would reveal the nexus of the respondents police and on the consequent events, the present charge sheet was laid and the entire allegations stated in the First Information Report and the charge sheet would not constitute any offence against the petitioners since there was no such incident had taken place and the First Information Report was taken on file only on the face of value and consequently, charge sheet has been filed and hence, the entire proceedings are not maintainable in the eye of law and the impugned proceedings in CC No.501 of 2016 is liable to be quashed.

5.On the other hand, it is argued by the learned Government Advocate (Criminal side) appearing for the respondents that after receipt of the complaint from the de-facto complainant, the Investigating Officer conducted investigation and he recorded the statements of the witnesses and the Investigating Officer filed a final report and from the complaint, FIR and the statement of witnesses, prima facie case was made out and hence, final report was filed as against these petitioners and already the 1st petitioner attacked the police parties in the temple festival and flee from India, as he know the fact that attacking of a Government servant is heinous offence and due to his escape, the investigation in Crime No.118 of 2014 could not be completed and as the 2nd respondent police came to know about the landing of the 1st petitioner in India, immediately took steps to serve the summon and all the accused used filthy language and also restrained the de-facto complainant and other policemen from doing their official duty and it is not correct that the 3rd petitioner is not available in the place of occurrence



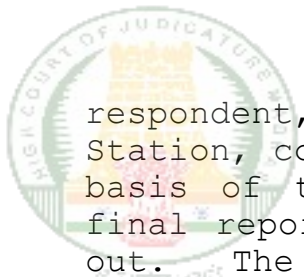
at the time of occurrence and the real fact will be come out only at the time of trial and prima facie case is made out as against the accused persons and prays that the criminal original petition has to be dismissed.

6.It is admitted on both sides that a case in Crime No.118 of 2014 was also registered as against the 1st petitioner and some others. The case of the 2nd respondent is that he along with one police constable went to the house of the 1st petitioner and the 1st petitioner refused to receive the summons and then all the petitioners used filthy language and restrained the de-facto complainant and the other policemen from discharging their duty and threatened them. Further, it was stated on the side of the respondents that the 1st petitioner in the temple festival attacked the police parties and flee from India, as he knows the fact that attacking of a Government servant is heinous offence and for enquiry and to serve summons, the 2nd respondent and other policemen went to the house of the 1st petitioner, this occurrence took place and prima facie case was made out as against the accused and prays that the criminal original petition has to be dismissed.

7.In this case, after receipt of the complaint from the 2nd respondent, this case was registered immediately and the Investigating Officer examined the witnesses and recorded their statements and filed a final report.

8.The main contention raised on the side of the petitioners is that during the year of 2014, in the temple festival, there was a dispute between policemen and the villagers and in this regard, a false case was registered as against the 1st petitioner and some other villagers and having grudged over the above incident, the very same Investigating Officer has introduced a false reason as if he went to the 1st petitioner's residence to serve the summons, but the police brutally attacked the petitioners due to previous motive and in order to put the petitioners in anyhow in jail, since all the petitioners were not arrested by the very same Inspector of Police in the earlier case relating to temple festival, he falsely implicated all the petitioners, who were left out in the earlier case and this case was filed and prays that this criminal original petition has to be allowed.

9.It is admitted on the side of the petitioners that the 1st petitioner was arrayed as an accused in Crime No.118 of 2014 and as per the version of the 2nd respondent, the occurrence took place when he and other policemen went to the house of the 1st petitioner for serving summons in connection with a case in Crime No.118 of 2014. In this petition, the petitioners stated that when the 2nd respondent and other policemen came to their residence, they were brutally attacked by the policemen. Hence, from the above version, it reveals that at the time of occurrence, all the petitioners were



respondent, the Inspector of Police attached to Achanpudur Police Station, conducted the investigation and filed a final report on the basis of the statement of witnesses. Hence, it reveals that the final report was filed only on the basis of prima facie case made out. The contention of the petitioners is that at the time of occurrence, the 2nd respondent and other policemen only attacked them. For that, the petitioners have not chosen to give any complaint to the police immediately. But the wife of the 1st petitioner gave a complaint to the District Crime Branch, Tirunelveli, on 04.04.2016 stating that the Inspector of Police, Ayyakudi with some police officials came to their house and attacked the 1st petitioner and took him unlawfully and the District Crime Branch sent the above complaint to the Superintendent of Police, Tirunelveli. But on perusal of the above complaint given by the wife of the 1st petitioner, it is not stated that on 02.04.2016, the 2nd respondent and one other policeman came to the house of the 1st petitioner to serve the summons in Crime No.118 of 2014 and at that time, the police official attacked the petitioners. Hence, the complaint given by the wife of the 1st petitioner is not relating to this occurrence in Crime No.63 of 2016.

10.On careful perusal of the records, it reveals that only after prima facie case is made out, the final report was filed in this case. The real fact will come out only at the time of trial by way of examining the witnesses and production of documents. At this stage, it is to be decided whether prima facie case was made out or not. In this case, on careful perusal of the records, it reveals that prima facie case was made out. Hence, the reasons stated by the petitioners are not acceptable.

11.In the result, this criminal original petition is dismissed. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

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Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate, Shenkottai, Tirunelveli.



2.The Inspector of Police,
Achanpudur Police Station,
Tiruneveli District.

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

+1 CC to M/s.D.SENTHIL KUMAR, Advocate (SR-23454[F] dated
01/12/2020)

Cr1.OP(MD)No.6237 of 2017
27.11.2020

pm(CO)
TR(10.12.2020) 5P 5C