



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

Date : 04.03.2020

WEB COPY

PRESENT

THE HON`BLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD).No.18049 of 2019
and
Crl.M.P(MD).Nos.10618 and 10619 of 2019

1.Abbas @ Kodai Abbas
2.Asheek @ Asheek Raja
3.Rabeek @ Satheek Raja

... Petitioners/Accused
1 to 3

Vs

1.State rep., by Inspector of Police,
D-3, Koodalpudur (L&O) Police Station,
Madurai City.
(Crime No.555/2015)

...Respondent/Complainant

2.K.Ayubkhan

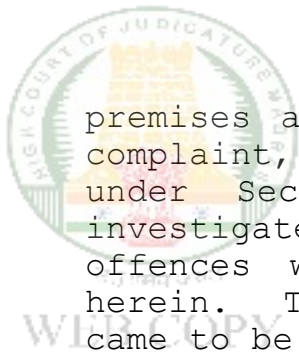
... Respondent/Defacto
Complainant

PRAYER : Petition is filed under Section 482 of Cr.P.C to call for the records relating to C.C.No.91 of 2019 pending on the file of the learned Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioner	: Mr.K.Manavalan
For Respondents	: Mr.A.Robinson
	Government Advocate (for R1)
	Mr.P.Santhanakrishnan (for R2)

ORDER

This original petition has been filed for quashing the impugned proceedings in C.C.No.91 of 2019 on the file of the Judicial Magistrate NO.IV, Madurai. The second respondent herein is the defacto complainant. The second respondent's brother is engaged in manufacture of Ayurvethic Herbal Soaps. The defacto complainant lodged a complaint before the first respondent alleging that the petitioners are indulging in various illegal activities by proclaiming themselves that they are the office bearers of Consumer and Human Rights Movement Trust. He would allege that on 06.10.2015 at about 03.00 pm the petitioners herein came to their company



premises and demanded a sum of Rs.1,00,000/-. Based on the said complaint, Crime No.555 of 2015 was registered for the offences under Sections 170, 294(b) and 506(i) IPC. The matter was investigated and final report was filed. Cognizance of these offences was taken and summons were issued to the petitioners herein. To quash the impugned proceedings, this original petition came to be filed.

2.Heard the learned counsel on either side.

3.The petitioners' counsel reiterated the contention set out in the memorandum of grounds and wanted this Court to quash the impugned proceedings.

4.Per contra, the learned Government Advocate as well as the learned counsel appearing for the defacto complainant submitted that the impugned proceedings do not deserve to be quashed and that the petitioners should be relegated to the trial Court for establishing their case.

5.I carefully considered the rival contentions and went through the materials on record.

6.Section 170 of IPC reads as under:-

'170.Personating a public servant-

Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.'

7.The said provision will be attracted only if some one pretends to hold a particular office as a public servant. In this case, even according to the defacto complainant, the first petitioner stated that he is the President of Consumer and Human Rights Movement Trust. The first petitioner is the father while the other two petitioners are his sons. In the typed set of papers a copy of the Trust Deed has been enclosed. It is seen that as early as April-1998, the first petitioner had registered a Trust in the name and style of "Consumer and Human Rights Movement Trust".

8.The Government counsel would point out that the Government of Tamil Nadu has issued Government Order and no society claiming to advance human rights can be registered under the Tamil Nadu Societies registration act 1975.



9.Here, that is not the issue. The issue is whether the petitioners falsely personated as public servants. The petitioners at no point of time claimed that they are public servants. They had projected themselves as office bearers of the Trust and it is true that the Trust in question bears the name of Consumer and Human Rights Movement Trust. Therefore, I am of the view that Section 170 of IPC is not at all attracted in this case.

10.The petitioners also stand accused of the offences under Sections 294(b) and 506(i) IPC. It is seen from the enclosed materials of the typed set that the petitioners had complained to the Pollution Control Board on 01.10.2015 alleging that the manufacturing activities of the defacto complainant's brother is polluting the locality. Even earlier, legal notice dated 10.07.2016 had been sent to the defacto complainant's brother by the first petitioner herein. The Trust in question had also filed C.C.No.29 of 2015 before the Tamil Nadu State Consumer Disputes Redressal Commission, Madurai Bench, alleging that Akash Pharmaceuticals run by the defacto complaint's brother is indulging in unfair trade practice. The consumer complaint was lodged in August 2015. The FIR in question came to be registered only on 11.10.2015. Even according to the FIR, the occurrence took place on 06.10.2015. The prosecution initiated by the defacto complainant is clearly subsequent in point of time.

11.I come to the conclusion that the impugned prosecution is attended by *malafides*. In order to wreck vengeance on the petitioners herein, the second respondent had come out with the instant prosecution. The brother of the defacto complainant and the petitioners are at logger heads. In order to wreck vengeance on the petitioners for targeting his brother, the second respondent herein had initiated the impugned prosecution. One of the parameters laid down in the case of ***State of Haryana Vs., Bajanlal (AIR 1992 SC 604)*** is that the criminal proceedings can be quashed, if it is shown that it has been instituted to wreck vengeance. I am satisfied that the said parameter is squarely applicable to the facts of this case. The very institution of the impugned prosecution can only be characterised as an abuse of legal process. Accordingly, the impugned proceedings in C.C.No.91 of 2019 on the file of the learned Judicial Magistrate No.IV, Madurai stand quashed and this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



rmk
To

1.The Judicial Magistrate No.IV, Madurai.

2.The Inspector of Police,
D-3, Koodalpudur (L&O) Police Station,
Madurai City.

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

+1 CC to M/s.K.MANAVALAN, Advocate (SR-10252[F] dated 05/03/2020)

ORDER
IN
Crl.O.P (MD) .No.18049 of 2019
04.03.2020

RMK

TK/SAR./18.03.2020/4P/5C