

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.25247 of 2015

and

M.P.No.1 of 2015

1) R.DEVADOSS
S/o.Raghava Reddy

2) SARASWATHI
D/o.Venkatesan

3) R.MOORTHY
S/o.E.Ramasamy

... Petitioners

Vs.

1) State rep. by
The Inspector of Police
B-1, North Beach Police Station
Chennai-1

2.A.SATHYA
S/o.P.Arasan

...2nd Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to call for the records in Crime No.502 of 2015 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.S.Shankar

For Respondents : Mr.T.Shunmugarajeswaran
Govt. Advocate (Crl. Side) for R1

O R D E R

(The case has been heard through video conference)

Petition has been filed seeking to call for the records in Crime No.502 of 2015 on the file of the 1st respondent and quash the same.

2.Brief facts of the prosecution case:

Based on the complaint given by the 2nd respondent herein, the 1st respondent registered a case against the petitioners for offence u/s.323, 506(i) IPC. The allegation in the complaint is that the defacto complainant / 2nd

respondent is a practising advocate and his father-in-law viz. Kathirvel was having land measuring about 1 acre & 7 cents at Vallur Village, Tiruvallur District. The 1st petitioner viz. Devadoss, fraudulently purchased the land from the defacto complainant's father-in-law and sold out the same. When the defacto complainant questioned the same, the 1st petitioner / A1 threatened him, hence the defacto complainant preferred a complaint before F2, Egmore Police Station during the year 2010 and when the police had called the 1st petitioner for enquiry on several occasions, he did not appear before them for enquiry. While so, on 03.06.2015 at about 3.30 p.m., while the defacto complainant along with his advocate friends were standing in front of the George Town Court premises, a car Toyota Fortuner bearing Reg. No. TN-05-AY-1234 had come in a very fast manner as if to dash against him and fearing danger, the defacto complainant moved away immediately. At that time, the 1st petitioner viz. Devadoss got down from the car and assaulted the defacto complainant with hands and fractured his right thumb and yet another lady who was also with him called the driver and directed him to attack the defacto complainant with knife. Fortunately, one Krishnan, who was standing at the scene of occurrence had protected him and thereby, the complaint had been given to the 1st respondent police to take action. Based on the complaint, a case was registered by the 1st respondent police in Crime No.502 of 2015, for the offence u/s.323, 506(i) IPC as stated above.

3.Mr.S.Shankar, learned counsel appearing for the petitioners would submit that the 1st petitioner is a businessman and the 2nd and 3rd petitioners are working under the 1st petitioner. On 03.06.2015 at about 3.00 p.m. while the petitioners were proceeding in their car from the office to the 1st petitioner's residence through George Town Court, the defacto complainant waylaid their car and attacked them and scolded them using filthy language and also threatened them with dire consequences and the defacto complainant had forcibly taken the car key and the Apple 5S cell phone from the 1st petitioner and misbehaved with the 2nd petitioner and restrained them illegally, thereby, one of the general public made a phone call to the police control room and thereafter the 1st respondent police came to the spot and rescued the petitioners. Immediately, the 3rd petitioner preferred a complaint against the defacto complainant before the 1st respondent police, which was registered in C.S.R.No.346 of 2015, since the defacto complainant happened to be an advocate. Whereas on the complaint of the defacto complainant, a case was registered by the 1st respondent police on 05.06.2015 in Crime No.503 of 2015 for the offence u/s.341, 294(B), 323 and 506(i) IPC and the same is pending investigation. He would submit that the 2nd petitioner's Toyota Fortuner car bearing Reg.No.TN05AY1234 was seized by the 1st respondent police, thereby, the 2nd petitioner filed a petition for return of her car before the learned VII Metropolitan Magistrate Court, George Town in CrI.M.P.No.108 of 2015 and on

23.06.2015 and when the 2nd petitioner entered into the Court for appearing in the return of property case, the defacto complainant, who being the advocate along with some other advocates prevented the 2nd petitioner from entering the Court hall and also prevented her counsel and insisted him not to appear in this case and also threatened the 2nd petitioner to leave the court premises. Hence, the 2nd petitioner left out from the Court hall without representing the case out of fear and life threat. Thereafter, the 2nd petitioner filed a petition in CrI.O.P.No.16378 of 2015 u/s.482 of Cr.P.C. before this Court to direct the 1st respondent police to return the vehicle and the same was duly considered vide order dated 03.07.2015 and this Court directed the 1st respondent police to return the vehicle by getting appropriate sureties.

4.Learned counsel would further submit that on 24.03.2010 when the 1st petitioner had gone to the Chief Metropolitan Magistrate Court, Egmore for attending his case in C.C.No.5169 of 2009, the defacto complainant waylaid the 1st petitioner and attacked him with hands, thereby, the 1st petitioner preferred a complaint before the Egmore Police Station in C.S.R.No.114/CSR/F2/2010 as well as to the Bar Council of Tamilnadu and Puducherry and the defacto complainant also gave a false complaint against the 1st petitioner and the 1st respondent police conducted investigation in both the complaints at F2, Egmore Police Station and both the complaints were closed.

5.Learned counsel would further submit that the 1st petitioner had purchased the land measuring about 1 acre & 7 cents at Vallur Village, Tiruvallur District from the defacto complainant's father-in-law's elder brother in the year 2009 and the 1st petitioner has not purchased any property from the defacto complainant's father in law. Since the land values has increased by meets & bounds, the defacto complainant threatened the 1st petitioner demanding more money and when the same was objected, the defacto complainant got vengeance against the 1st petitioner and had preferred many false complaints against him by abusing his position as Advocate and had been harassing him repeatedly. He would submit that the fact remains that on the particular day, it was the defacto complainant, who stopped the petitioners and waylaid their car and attempted to remove the car key and there was a mele in which the defacto complainant probably could have sustained injury and taking advantage of the injury for which the petitioners are not responsible, had preferred a false complaint against the petitioners. The petitioners are unnecessarily harassed by the defacto complainant who is an Advocate abusing his position.

6.Learned Government Advocate (CrI. Side) would submit that it is a case and case in counter. On the complaint given by the 2nd respondent / defacto complainant, the present case has been registered by the 1st respondent police in Crime

No.502 of 2015 for the offence u/s.323 & 506(i) IPC. He would submit that a counter complaint has been given by the 3rd petitioner, based on which, a case was initially registered in C.S.R.No.346 of 2015 and thereafter finding that both the incidents took place on one and the same day viz. on 05.06.2015, a case in Crime No.503 of 2015 has been registered by the 1st respondent police for the offence u/s.341, 294(B), 323 and 506(i) IPC. He would submit that as far as this case in Crime No.502 of 2015 is concerned, the defacto complainant had sustained fracture in the right thumb and he has taken treatment at Stanley Government Medical College Hospital, Chennai and the statement of the Doctor has also been recored. He would further submit that apart from the Doctor, six other witnesses have also been examined. He would further submit that it is a case and case in counter, and due to the pendency of this petition, they are unable to proceed with the investigation.

7.The learned Government Advocate would further submit that the presence of the petitioners at the place of occurrence has been confirmed by the counter complaint given by the 3rd petitioner. Further, the 1st petitioner had assaulted the defacto complainant, due to which, he has sustained fracture in the right thumb and after giving the complaint, the 2nd respondent / defacto complainant had gone to the Stanely Government Medical College Hospital, Chennai and he has been given treatment. The doctor, who had treated the defacto complainant had stated that the injury sustained by the defacto complainant is a grievous one and that the statement from the doctor has also been recorded and the medical certificate issued states that it is a grievous injury. However, he would submit that it is a case and case in counter and the 1st respondent police will conduct investigation in accordance with law.

8.In the light of the above facts and submissions, this court is of the opinion that it is not a fit case for quash. This Criminal Original Petition stands dismissed accordingly. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police
B-1, North Beach Police Station
Chennai-1

2.The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.S.Sankar, Advocate SR.17192

Cr1.O.P.No.25247 of 2015
and
M.P.No.1 of 2015

PL(CO)
CB(01/04/2021)