

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.744 of 2018
and Crl.M.P.No.250 & 251 of 2018

B.Senthil, Male, aged about 38 years,
Deputy Tahsildar, (Flying Squad),
District Supply and Consumer Protection Office,
District Collector Office, Dharmapuri. ...Petitioner

Vs.

Shankar, Male, aged about 37 years,
S/o.Murugan,
Muthupatti Village, Alle Dharmapuri Post,
Dharmapuri B1 Police Station Jurisdiction
Dharmapuri Taluk and District. ...Respondent

Prayer: The Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records culminating in the Impugned S.T.C.No.1083 of 2017, pending on the file of the Learned Judicial Magistrate-I, Dharmapuri, and quash the same.

For Petitioner : Mr.Arun Anbumani

For Respondent : Mr.A.E.Kalaiselvan

ORDER

This Criminal Original Petition has been filed seeking to call for the records culminating in the Impugned S.T.C.No.1083 of 2017, pending on the file of the Learned Judicial Magistrate-I, Dharmapuri, and quash the same.

2. The case of the petitioner is presently working as Superintendent, Q Section in the office of the District Collector, Dharmapuri. Earlier the petitioner was working as a Deputy Tahsildar (Flying Squad), District Supply and Consumer Protection Office, Dharmapuri and the petitioner is a reputed Government Official, and carried out all his duties in a fair and proper manner for maintaining the supply and distribution of essential commodities to the General poor. The respondent is an offender involved in smuggling and illegal hoarding of PDS (Public Distribution System) rice, wheat, grinding of PDS rice to flour, etc, between the months of April and June 2017 and the petitioner has registered 4 cases against the respondent in order to over come the respondent filed a false complaint against the petitioner under Section 200 Cr.P.C., before the trial Court as if the

petitioner attacked the defacto complainant on the premises and made allegations against the petitioner before the Superior Officer for the offence under Sections 294(b), 323, 506(2) of IPC and further, challenged the said complaint, the present petition has been filed under Section 482 of Cr.P.C.,

3. The learned counsel for the petitioner submits that the main allegation required under Section 323 and 506(i) not satisfied in the complaint, the private complaint made against the petitioner as if the petitioner attacked the defacto complainant due to which, he sustained multiple injuries. However, no treatment record is filed before the trial Court. The defacto complainant made a complaint before the Superior Officer against the petitioner on 16.06.2017 and the same was received on 19.06.2017 by the District Collector, stating that the petitioner attacked the defacto complainant on 18.06.2017, in order to harass the petitioner. The learned counsel for the petitioner relied upon the order passed in the High Court of Bombay 2018 SCC Online Bom 15843 Para 4,5 and 6 are extracted here under:-

"4.In this back ground, the respondent No.1 has filed

the present proceedings bearing Summary Case No.2261 of 2002 in the Court of Judicial Magistrate First Class, Palghar under Sections 420, 323, 504, 506 of the Penal Code, 1860.

5.It is to be noted here that, the respondent No.1 in his complaint has admitted the said fact of lodgment of criminal proceedings against him due to which he had obtained anticipatory bail on 25.08.2002 from the Sessions Court at Palghar, The complaint proceeds on the footing that, the petitioners came to the factory premises on 23.08.2002 and removed the respondent No.1's workers from the site, It is also stated that, on 24.08.2004 the petitioner No.1 assaulted the respondent No.1 with 'piler' (as mentioned in para-10 of complaint) on his left hand thumb and caused injury to it. The learned Judicial Magistrate First Class, Palghar issued process on 17.01.2003. In the premise the petitioners have approached this Court challenging the prosecution launched by the respondent No.1 by way of Summary Case No.2261 of 2002 and the order of issuance of process dated 17.01.2003.

6.Perusal of the complaint would indicate that, general and vague allegations are made against the petitioners therein. No medical certificate in respect of injury suffered by the complainant has been brought on record. As noted earlier, the petitioners have lodged the crime under sections, 408, 420 read with 34 of the Penal Code, 1860 against the respondent

No.1 prior in point of time and the respondent No.1 had obtained anticipatory bail in that case. The police after completion of investigation have submitted charge sheet in the Court of competent jurisdiction which is culminated into CC No.139 of 2002,"

4. Though notice is served on the respondent none appeared on behalf of the respondent. It is not in dispute, admittedly the petitioner filed four cases against the respondent in Crime Nos. 29, 33, 44 and 48 of 2017 and in order to overcome, the respondent filed the present complaint on 16.06.2017 and the complaint was received on 19.06.2017. This Court was unable to come to the conclusion that the complaint was made on 16.06.2017, whereas in the same complaint it is stated that he was attacked by the petitioner on 18.06.2017 and sustained injuries. The respondent/defacto complainant has not filed any medical records before the trial Court to prove that he was admitted in the hospital nor produced any documents for taking treatment for the injuries sustained by him. Hence, the offences under Sections 294(b), 323 and 506(i) was not proved and made out against the petitioner.

5. Accordingly, the complaint in S.T.C.No.1083 of 2017 pending on the file of the learned Judicial Magistrate-I, Dharmapuri, is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

08.04.2021

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To

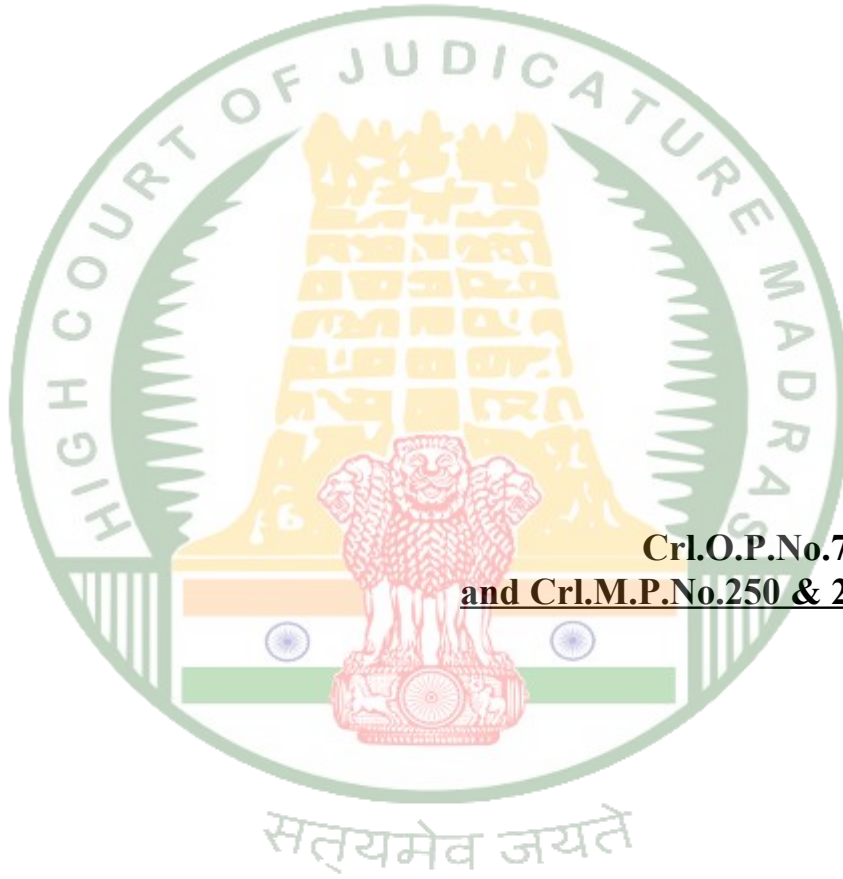
- 1.The learned Judicial Magistrate No.I,
Dharmapuri.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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M.DHANDAPANI,J.

msrm



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