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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.2992 of 2021
and
Crl.M.P.Nos.7973 & 1681 of 2021

P.Praburam

...Petitioner

Versus

1. State by:
Inspector of Police
Thittakudi Police Station
Cuddalore District.

2. M.Prabhakaran

...Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records from the first respondent police in Crime No.36 of 2021 on the file of the Thittakudi Police Station, Cuddalore District and quash the First Information Report registered against the petitioner/accused by the first respondent police.

For Petitioner : Mr.R.Rajasekaran

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor

: Mr.Nandhakumar for R2
Legal Aid Counsel

O R D E R

This Criminal Original Petition is filed to call for the records from the first respondent police in Crime No.36 of 2021 on the file of the Thittakudi Police Station, Cuddalore District and quash the First Information Report registered against the petitioner/accused by the first respondent Police.

2. The petitioner, who is the accused in STC.No.157 of 2019 for the offence under Sections 294(b), 323, and 506(i) of IPC, has filed this quash application.



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3. The gist of the case is that on 21.10.2020 at 10.30 a.m., the petitioner went to attend a hearing in STC.No.157 of 2019 in his Car bearing Reg.No.TN-04-AR-0699, at that time, when he saw the defacto complainant, who was standing in the Court Campus along with his village people, the petitioner abused him with filthy language and fisted upon his face and stomach. Further, the petitioner threatened him with dire consequences. At that time, one Elangovan and Ganavel, who were present along with the defacto complainant, rescued him and hence, he lodged a complaint, but no action taken, hence, he approached the Judicial Magistrate, Thittakudi under Section 156(3) of Cr.P.C. Thereafter, an FIR came to be registered on 20.01.2021 for the offence under Sections 294(b), 323 and 506(i) IPC.

4. The contention of the petitioner is that the second respondent/defacto complainant is in the habit of filing false complaint against the petitioner and earlier he had lodged a complaint for some contract dispute and a case in Crime No.20 of 2019 came to be registered. On completion of the investigation, charge sheet was filed in STC.No.157 of 2019. During the investigation in Crime No.20 of 2019, the petitioner filed anticipatory bail petition before this Court in CrI.O.P.No.8772 of 2019 and the same was granted on 03.04.2019. On 09.04.2019, the petitioner proceeded to the trial Court, executed sureties and left, a false complaint was lodged by the second respondent stating that the petitioner threatened the second respondent in the Court premises. Hence, a case in Crime No.141 of 2019 came to be registered, which was later closed as 'mistake of fact'. Not stopping with that, when the petitioner appeared before the Lower Court on 21.10.2020 for hearing in STC.No.157 of 2019, another complaint made alleging that the petitioner abused and assaulted the defacto complainant, hence the above case.

5. It is further submitted that earlier a complaint was lodged by the petitioner, when it was enquired, both the petitioner and the de-facto complainant/second respondent appeared before C5- Kothavalchavadi Police Station on 07.10.2016, wherein the de-facto complainant gave an undertaking that he would approach the Civil Court and seek redress for his disputes. On the contrary, the de-facto complainant/second respondent filed one case or other against the petitioner, by filing petition under Section 156(3) Cr.P.C., which clearly proves that there is an abuse of process of law.

6. The learned Additional Public Prosecutor has submitted that the second respondent preferred a private complaint under Section 156 (3) Cr.P.C. in D.No.01/2021, dated 04.01.2021, before the Judicial Magistrate, Thittakudi and as per the direction of the Judicial Magistrate, an FIR registered



in Crime No.36 of 2021 and investigation commenced. Immediately, the petitioner approached this Court and filed this quash petition.

7. The second respondent/defacto complainant submitted that the petitioner is a powerful person residing in Chennai and he is still to pay a sum of Rs.52,24,825/- for executing the electrical contract work by the de-facto complainant. The relationship between the petitioner and the defacto complainant is not denied. The contract executed is also not denied, the dispute is with regard to the quantum alone. The case projected by the petitioner is not proper. More than 50% of the contract amount, i.e., around Rs.52,24,825/- is to be paid by the petitioner, with ill intention to cheat, petitioner threatened the second respondent, when he enquired and requested for the balance money due for the electric contract work, the petitioner threatened and abused him over phone. Hence, a complaint lodged by the petitioner, charge sheet filed, case is pending trial in STC.No.157 of 2019.

8. When the petitioner came to Court for furnishing sureties before the Magistrate, the petitioner as well as his counsel assaulted the second respondent emboldened for the inaction of Police, the petitioner again assaulted and threatened the second respondent on the hearing date of STC.No.157 of 2019. The petitioner earlier gave a complaint in the year 2016 before the C5- Kothavalchavadi Police, wherein the Police advised them to resolve the dispute before the Civil Court, now taking advantage of the same, the petitioner refused to pay any amount and the threatened the de-facto complainant.

9. Considering the submissions and perused the materials, it is seen that the dispute between the petitioner and the defacto complainant is from the year 2016. It is not disputed that between the years 2014 and 2016, the petitioner engaged the defacto complainant and he carried on the electrical contract work in three places. There was some dispute over payment for the said electric work, for which, the petitioner lodged a complaint in the year 2016, wherein the de-facto gave an undertaking to approach the Civil Court and thereafter, the complaint was closed. Suppressing the same, the de-facto complainant filed a complaint alleging that the petitioner threatened the de-facto complainant on 25.05.2018, i.e., after two years. Followed it by another complaint in Crime No.141 of 2019 for threatening the defacto complaint on 09.04.2019 by the petitioner, before the Lower Court, which is now closed. This case in Crime No.36 of 2021 is another case, which was registered for threatening and assaulting the defacto complainant, when the petitioner appeared for hearing in STC.No.157 of 2019.



10. In this case, according to the defacto complainant, the occurrence had taken place in the Court Complex, but strangely, no complaint or representation, was made by the Advocates, public/litigants or the Judicial Magistrate, Thittakudi. In a Court such incident cannot go unnoticed on the contrary small commotions are amplified and complaints lodged.

11. The petitioner earlier filed a memo before the District Munsif-cum-Judicial Magistrate, Thittakudi on 21.10.2020 in SR.No.1676 of 2020 and the same kept pending. From the memo, it is seen that the petitioner had sought for security and protection from the attack and assault of the defacto complainant/second respondent. The assault on the de-facto complainant is said to have taken place in the Court Premises, but there is no complaint from the Court Staff, Advocates, or others, who were present in the Court. In the absence of any complaint from the concerned persons, the veracity of the complaint becomes doubtful.

12. In view of the same, this Court finds that continuation of investigation in Crime No.36 of 2021 would amount to abuse of process of law. Hence, hereby quashed.

13. This Court places special appreciation to the Legal Aid Counsel Mr.Nandhakumar, for thorough preparation and effective submissions made on the case of the defacto complainant.

14. With the above directions, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

dna

To

1. The Judicial Magistrate,
Thittakkudi,
Cuddalore District.



2. The District Munsif-cum-Judicial Magistrate,
Thittakkudi.

3. The Inspector of Police
Thittakudi Police Station
Cuddalore District.

4. The Public Prosecutor
High Court, Madras.

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AD[co]
NSK 27/10/2021