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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.09.2021

PRONOUNCED ON : 27.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.14801 & 17099 of 2021
and Crl.M.P.Nos.8031, 8033, 9388 & 9390 of 2021

- 1.T.M.Anbarasan
- 2.M.Subramaniam
- 3.M.Krishnamoorthy
- 4.Chithirai Malli Ethirajan
- 5.E.Karunanidhi
- 6.Vinayagam
- 7.Ganesan
- 8.A.Peer Mohammed
- 9.S.B.Murugesan
- 10.Singaram
- 11.R.Nedunchezhiyan

... Petitioners in/A1,2,3,12,13,15,18,19,20,21,24
Crl.O.P.No.17099 of 2021

- 1.Ravi @ Ajantha
- 2.R.L.Kanthan
- 3.Kennedy
- 4.Poomalai
- 5.N.P.Kothandam
- 6.Sampath @ Saidai Sampath
- 7.Sasi

... Petitioners in/A4,6,8,9,10,14
Crl.O.P.No.14801 of 2021

Vs.

- 1.The State represented by
Inspector of Police,
R7, K.K.Nagar, Police Station,
Chennai - 600 078.

... 1st Respondent/Complainant

- 2.A.Santhosh

... 2nd Respondent/Defacto Complainant



COMMON PRAYER: Criminal Original Petitions are filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the C.C.No.10 of 2020 on the file of the Additional Special Court for trial of Criminal Cases relating to Mps and MLAs, Singaravelan Maaligai, Chennai - 600 001 and quash the same as against the above petitioners.

For Petitioners : Mr.N.R.Elango, Senior Counsel
(in both the Crl.O.P.Nos.) for Mr.M.Shahjahan

For R1 : Mr.A.Damodaran
(in both the Crl.O.P.Nos.) Additional Public Prosecutor

For R2 : Mr.V.Parthiban
(in both the Crl.O.P.Nos.)

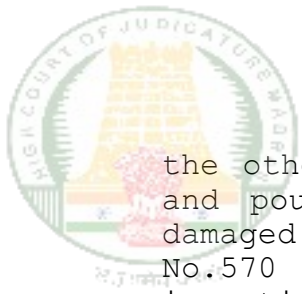
COMMON ORDER

These Criminal Original Petitions are filed to call for the records in connection with C.C.No.10 of 2020 on the file of the Additional Special Court for Trial of Criminal Cases relating to MPs and MLAs, Singaravelan Maaligai, Chennai - 600 001 and quash the same as against the above petitioners.

2.Since the issue arising out in these Criminal Original Petitions are of same cause of action and common order is passed.

3.The petitioners, accused in C.C.No.10 of 2020 facing trial for the offence under Sections 147, 148, 436 and 31 of TNPPDL Act filed these quash petitions. Since NBW was pending for a long time against A5 and A22, case against them was split up and C.C.No.13 of 2020 assigned.

4.The gist of the case is that on 19.04.2005, at about 09.30 a.m., the defacto complainant/second respondent had lodged a complaint stating that he was the councillor of 136 Division, on that day, by election for 131 zone was held and he was the election agent, for overseeing the election in MAK School, at that time, some of the accused herein had forcibly entered into the voting centre snatched away the seal of the election officer and also the voters slip by force, obstructed the election process, which was objected by the defacto complainant and he was chased away. Thereafter, on finding that the defacto complainant's TOYOTA QUALIS Car bearing Registration No.TN 10 T 4444 was parked in Bharathidasan Street, Saidapet, half a Kilometer away from the said polling booth, the first accused instructed the other accused to damage the vehicle of the defacto complainant/second respondent. On his instruction,



the other accused damaged the vehicle and broke the wind screen and poured petrol and set fire. The vehicle was completely damaged. Thereafter he lodged a complaint. A case in Crime No.570 of 2005 was registered and thereafter on completion of investigation charge sheet filed before the XXIII Metropolitan Magistrate, Saidapet as C.C.No.4374 of 2006, later assigned PRC.No.54 of 2017 and since summons was pending for long period against two of the accused, the case was split up in PRC.No.53 of 2017 and committed to the Court of Sessions, taken on file, assigned S.C.No.55 of 2017. Thereafter, the case was re-transferred to the Chief Metropolitan Magistrate Court, Egmore, Chennai and the same taken on file as C.C.Nos.6624 of 2019 and 6552 of 2019. After formation of the special Court for M.P. and M.L.A.s', the cases were forwarded to the Additional Special Court for trial and C.C.No.10 of 2020 and C.C.No.13 of 2020 were assigned. At this stage, the above quash petitions are filed. During pendency of trial A5 K.S.Rooso, A16 Joseph, A17 Sekar, A22 Abdullah and A23 Madhan passed away. Now remaining accused have approached this Court.

5.The contention of the petitioners is that the petitioners and the defacto complainant/second respondent belong to the rival political parties. Due to the political animosity, the second respondent had given a false complaint against the petitioners. The respondent police had not conducted proper investigation in this case. The statement of witnesses were recorded on the same day of the occurrence i.e. on 19.04.2005, except for the statement of Motor Vehicle Inspector and the Works Manager, Government Work Shop viz., LW10 and LW11. Further submitted that the defacto complainant/second respondent belonged to the then ruling political party. Despite the petitioners not involved in the alleged offence, they are falsely implicated to satisfy the people in power. Further submitted that for the past 10 years, the trial in this case has not yet commenced.

6.He further submitted that on going through the statement of witnesses, it is clearly seen that all the witnesses are interested persons known to the defacto complainant/second respondent. The defacto complainant, his driver and all witnesses have given a parrot like version, they admit that knew the defacto complainant, no private individual present in the scene of occurrence were examined. Though, the documents, observation mahazar, rough sketch were prepared on the same day and statements recorded i.e. 19.04.2005, all the documents reached the court only along with the charge sheet and no reason was given for the delay. Hence, the veracity of the statements and documents are highly doubtful.



7.The defacto complainant and other witnesses clearly stated that they identified the accused persons in the respondent police station lock up, which is not proper and acceptable. In this case, the properties alleged to have been seized at the scene of occurrence reached the court with considerable delay. Further the learned Senior Counsel relied on the decision of this Court in the case of Logu @ Loganathan Vs. State rep. by the Inspector of Police, Thanjavur Taluk Police Station in Crl.A.No.273 of 2008 dated 27.09.2018, wherein this court had observed that during political party agitations or ethnic agitations, demonstration or other activities or communal clash, if any, private properties are damaged, to fix the liability on such groups, for this reason the amendment brought in TNPPDL Act. The object itself is to compensate the loss of the private properties for the damage caused by the said groups.

8.The learned Additional Public Prosecutor filed his counter and submitted that the defacto complainant appeared before the respondent, lodged a complaint stating that the petitioners/accused who belong to rival political party entered into the polling booth during by-election for 131st Ward of Chennai Corporation, they picked up a fight with the polling officer, snatched away the official seal of the polling officer. When the defacto complainant questioned the same, he was chased and he ran for his safety. Finding the defacto complainant's car bearing Registration No.TN 10 T 4444 there, they set fire to the vehicle and damaged it. The respondent police visited the scene of occurrence, prepared observation mahazar, rough sketch, examined the witnesses present in the scene of occurrence and filed the final report listing LW1 to LW13, along with the documents. The final report was filed on 08.08.2005. During the investigation, the Motor Vehicle Inspector, inspected the vehicle and gave a report. Likewise, the Works Manager of the Government Auto-mobile Workshop, assessed the damage of the vehicle and gave a report. Thereafter, charge sheet filed against 23 accused before the Chief Metropolitan Magistrate Court, Egmore, Chennai. Some of the arrested accused confessed and admitted the commission of offence and also disclosed the involvement of the other accused. The other accused obtained anticipatory bail. P.R.C. Number assigned and committed to the Court of Sessions and thereafter sent back to Chief Metropolitan Magistrate Court, Egmore, Chennai. Now the cases are pending before the Special Court for trial of MPs and MLAs in C.C.Nos.10 and 13 of 2020. The delay occurred is not due to prosecution, but only by the accused, who filed one petition or other to delay the trial.

9.The Lower Court on perusal of the final report and finding prima facie case made out, took cognizance and issued summons to the accused. The points raised by the accused are factual in



nature, which are to be decided during the trial and not in these quash petitions.

10. The defacto complainant filed his counter affidavit and submitted that he was the Booth agent for the corporation by-election, held at MAK School on 19.04.2005. He parked his TOYOTA QUALIS Car bearing Registration No. TN 10 T 4444 in Bharathidasan Street, Saidapet, half a kilometer away from the polling booth. At about 10.00 a.m., the defacto complainant was informed that his car was in flames due to an accidental fire and found his car already burnt. The public had gathered there and no one could give reason for the fire, by the time, the police reached there and they obtained signatures of the defacto complainant in various papers. Since the defacto complainant was busy with the election duty, he was unable to understand what was going around. Now the defacto complainant intends not to proceed with the case, further he confirms that he has no grievance against the petitioners. He categorically stated that he mistakenly included the petitioners as accused in this case, since there was a political rivalry and animosity during the Corporation by-election and it was a tense moment. He admits that he and the petitioners belonged to rival political parties. Now realised the mistake, has no objection for quashing of the case against the petitioners.

11. Considering the rival submission and on perusal of the materials, it is seen that in this case LW1, is the defacto complainant/second respondent, and he had lodged a complaint on 19.04.2005. In his statement dated 20.04.2005, he admits that he identified 11 persons from the lock-up of the respondent police station as the persons involved in burning of his car. LW2, is the driver of LW1, he gives an exaggerated version, as though, A1 in this case along with some of his party men entered the polling booth instructing others that if they see rival political party persons, their hands and legs should be severed. Further, if, any vehicle of rival party members is found, the same to be burnt. Later he saw LW1 was chased by A1 and others, at that time, two of the accused poured petrol over the vehicle and two of them set fire to the vehicle, later they moved away from the place of occurrence. LW2 admits that he identified the accused from the lock-up of the respondent police station.

12. LW3 is an Auto driver, who is known to LW1 and LW2, his version is that the vehicle was damaged by kicking and fisting by the accused persons and later they set fire. He further states that he has driven the Toyota Qualis vehicle to the scene of occurrence. He identifies the accused from the lock-up of the respondent police. LW4 is a Tailor, who accompanied LW1 and LW3 to the polling booth. He states that he had driven the vehicle Toyota Qualis, further he identifies the accused from



the lock-up of the respondent police. LW5 is a two-wheeler mechanic known to LW1 and he states that the accused by kicking and fisting the vehicle caused damage, and thereafter set fire to the vehicle and he also states that he had driven the vehicle Toyota Qualis and identified the accused from the lock-up. LW7, 8 and 9 state that the accused herein fisted and kicked the vehicle and caused damage to the vehicle. LW10 is the Motor Vehicle Inspector, on 21.04.2005, he inspected the vehicle at St.Thomas Mount Police Station. LW11 is the Works Manager, Government Workshop states that he assessed the damage to the vehicle, damage to the tune of Rs.2,50,000/- and he had given a certificate for the same on 03.05.2005. His statement is recorded on 21.04.2005, but he mentions about his report dated as 03.05.2005. No body knows how the Toyota Qualis Vehicle reached St.Thomas Mount Police Station.

13.From the statement of witnesses, it is seen that all the witnesses are known to LW1 and they were present at the time of lodging the complaint and are projected as Eye-witness, who all gave a parrot version of the incident. All admits that they identified the accused in the police lock-up. Further causing damage to the vehicle by fisting and kicking, looks highly artificial. Likewise, the damage caused and its assessment are not believable. There is no finding as to how the vehicle is moved from the scene of occurrence to the St.Thomas Mount Police Station. Now the defacto complainant/second respondent had filed an affidavit stating that he had mistakenly included the name of the accused and further he is not sure, how the vehicle had accidental fire. In the report, there is nothing to show the presence of smell and traces of petrol. The person, who had lost the vehicle clearly states that the accused are not the cause for the fire and he had mistakenly given their names. The petitioners and the defacto complainant belong to rival political party and there seems to be some animosity among them and on the date of occurrence, a surcharged atmosphere prevailed due to corporation by-election.

14.This Court had observed that the public property damage is assessed to fix the liability on the persons causing it. The defacto complainant is not sure the reason for the fire on his vehicle. The Motor Vehicle Report as well as in the Damage Assessment Report, there is nothing to show that the vehicle was set fire by using petrol. The Observation Mahazar and Rough Sketch is not referred by any of the witnesses. Further, the statements and documents have reached the court belatedly. No reason is given for the delay. Further this case is pending without any progress for nearly a decade. In view of the above, continuation of the proceedings against the petitioners would amount to abuse of process of law.



15. In the result, these Criminal Original Petitions are allowed and the case in C.C.No.10 of 2020 & C.C.No.13 of 2020, the split up case, pending on the file of the Additional Special Court for Trial of Criminal Cases Relating to MPs and MLAs, Singaravelan Maaligai, Chennai - 600 001 are hereby quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

1. The Additional Special Judge,
Additional Special Court for Trial of
Criminal Cases Relating to MPs and MLAs,
Singaravelan Maaligai,
Chennai - 600 001

2. The Inspector of Police,
R7, K.K.Nagar, Police Station,
Chennai - 600 078.

3. The Public Prosecutor,
High Court,
Madras.

+4ccs to Mr.M.Shajakhan, Advocate Sr Nos.55219,55218,56010,56011

CrI.O.P.Nos.14801 & 17099 of 2021
and CrI.M.P.Nos.8031, 8033, 9388 & 9390 of 2021

CA (CO)
PR (24/11/2021)