

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.20041 of 2017
and
CrI.MP.No12078 of 2017

1.M.Abdullah

2.Mr.Abu @ Abdul Hassan ..Petitioners/
2nd and 3rd accused

vs.

1. The Inspector of Police,
Mangalampet Police Station,
Cuddalore District.

2. Mr.Kamala Kannan ..Respondents/
Complainants

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings as against the petitioners in C.C.No.210 of 2016 pending on the file of the Judicial Magistrate-II, Vridhachalam, Cuddalore District.

For Petitioners : Mr.I.Abdul Basith

For Respondents : Mr.C.Raghavan
Government Advocate
for R 1
No Appearance for R 2

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ORDER

This criminal original petition has been filed to quash the proceedings in C.C.No.210 of 2016, pending on the file of the Judicial Magistrate-II, Vridhachalam, Cuddalore District.

2.The case of the prosecution is that on 21.09.2015, the petitioners herein and others restrained a procession that was undertaken during Vinayaka Chathurthi and abused the

participants in filthy language and caused threat to them and restrained them by force.

3.A complaint was given in this regard by the 2nd respondent on 26.09.2015 and the respondent police registered an FIR in Crime No.251 of 2015, against the petitioners and others for offences under Section 143, 294(b), 341 and 506(i) IPC. On completion of the investigation, a final report came to be filed before the Court below and the same was taken on file in C.C.No.210/2016.

4.Heard Mr.I.Abdul Basith, learned counsel for the petitioners and Mr.C.Raghavan, learned Government Advocate for the 1st respondent. The 2nd respondent has been served notice and there is no representation for the 2nd respondent either in person or through counsel.

5.The main ground that has been raised in this petition is that it is a malicious complaint given by an organisation which has a difference of opinion with the petitioners on the ideology. According to the petitioners, the entire procession was given police protection and in the presence of the police, this incident could not have happened and consequently for an incident which is alleged to have taken place on 21.09.2015, the complaint itself came to be given only on 26.09.2015.

6.It is seen from records that the original FIR was registered on 26.09.2015. This FIR was dispatched to the Jurisdictional Magistrate Court only on 30.09.2015 and it is evident from the alteration report filed before the Jurisdictional Magistrate Court on 30.09.2015. However, the statements from the witnesses is said to have been recorded on 26.09.2015.

7.The above sequence of events clearly shows that the entire complaint is attended with malafides and the criminal law has been set in motion by persons having a different religious ideology, for an incident which could not have taken place in the presence of such a huge police force who were on bandobast duty during Vinayakar Chathurthi procession. If really such an incident had taken place, there was no reason for lodging a complaint after nearly five days. The facts of the present case clearly falls within the parameters laid down by the Hon'ble Supreme Court in State Of Haryana And Ors vs Ch. Bhajan Lal And Ors reported in (1992) SCC Cr1 426. The continuation of the proceedings will only amount to an abuse of process of Court which requires the interference of this Court.

8.In the result, the proceedings in C.C.No.210 of 2016 pending on the file of the Judicial Magistrate-II, Vridhachalam, Cuddalore District, is hereby quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP
To

- 1.The Inspector of Police,
Mangalampet Police Station,
Cuddalore District.
- 2.Judicial Magistrate-II, Vridhachalam,
Cuddalore District.
- 3.The Public Prosecutor,
Chennai.

+1cc to Mr.I.Abdul Basith, Advocate, sr no.9087

AAB (CO)
RMP (09/03/2021)

Cr1.O.P No.20041 of 2017

सत्यमेव जयते
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