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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATISH KUMAR

Crl.O.P.No. 20353 of 2017 and
Crl.M.P.Nos.12197 & 12198 of 2017

1.Padhukul Jaman
2.Kuraisha Beevi
3.Suresh alias Kuttan
4.Chandramohan
5.Murugesan

... Petitioners/ Accused 1 to 5

Versus

1. The State Represented by
Inspector of Police,
Sembanar Kovil Police Station,
Nagapattinam District.

2. S.Manimegalai ... Respondents/ De-facto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C
to quash the proceedings in P.R.C.No.9 of 2015 on the file of
the Judicial Magistrate No.1, Mayiladuthurai, Nagapattinam
District.

For Petitioner : Mr.K.Sellathurai

For Respondents: Mr.S.Vinoth Kumar.

Government Advocate (Crl.Side) for R1

: Mr.Tamilselvan for R2

ORDER

This petition has been filed to quash the proceedings in
P.R.C.No.9 of 2015 pending on the file of Judicial Magistrate
No.1, Mayiladuthurai, Nagapattinam District for the offences
under Sections 147, 448, 294(b), 506(i) I.P.C.r/w 109 I.P.C read
with Section 3(1)(S) & 3(2)(Va) of Schedule Caste and Schedule
Tribe (Prevention of Atrocities) Amendment Ordinance, 2014.



2. Heard the learned counsel for petitioner, the learned Government Advocate (Crl.side) appearing on behalf of the first respondent and the learned counsel for the second respondent.

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3. It is the contention of the learned counsel for the petitioner that this case has been lodged due to the civil dispute and the petitioners have already filed a suit in O.S.No.211 of 2013 on the file of the District Munsif Court, Sirkazhi, in respect of the properties sold to the de facto-complainant's husband namely Selvaraj alias Akkur Selvaraj. He further submitted that this complaint itself is a counter blast of previous complaint given against the husband of the de facto complainant. It is his further contention that even the very charge sheet indicates that there is no intention to commit the offence and therefore, the charges are not in conformity with the provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Amendment Ordinance 2014 and other IPC offences.

4. It is his further contention that when there is no serious allegation in the complaint against the accused, the complaint has to be quashed, learned counsel relied on the judgement of Apex Court in Gorige Pentiah Vs. State of Andhra Pradesh & Others reported in 2009 CRI.L.J.350 and judgment of this court in Dr.A.Ganapathi Vs.State of Tamil Nadu, reported in 2019 (1) MLJ(Criminal) 692, which was filed for quashing the FIR. The learned counsel submitted that the entire prosecution is a result of false case and therefore, he seeks for quashing of P.R.C.No.9 of 2015.

5. The learned Government Advocate appearing for the first respondent submitted that merely because there are some civil dispute, the same cannot be a ground to quash the final report for the serious offences of this nature. It has to be seen only in the trial.

6. On a perusal of the final report and the other materials placed before this Court, it is seen that there are civil disputes pending between the parties, which is not disputed. This Court is of the view that mere pendency of the civil suit itself cannot be a ground to arrive at a conclusion that no such occurrence has taken place and there are cases in counter already registered between the parties and the investigation report indicates prima facie that there are serious allegations intimidating the member of the Scheduled Caste. Whether such allegations are entirely false or not cannot be gone into at



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this stage. It is a matter of evidence. Therefore, this Court is of the view that mere pendency of the civil suit cannot be a ground to quash the entire charge sheet. In one of the judgments cited above i.e., Dr.A.Ganapathi's case, this Court has held that even if the allegations in the FIR is taken on their face value and accepted in its entirety, the same do not constitute an offence and there is no mention in the complaint that the accused is not a member of the scheduled caste. In such a situation, the FIR came to be quashed. Similarly, the Apex Court in Gorige Pentiah's case held that when the allegations in the complaint do not show that the accused belong to SC or ST, the FIR could be quashed. The above judgments are not applicable to the facts of this case, since in this case on collection of materials and recording of statement of the witnesses, a final report has been filed. The question as to whether allegations have been falsely made due to the civil dispute, has to be decided only in trial. In such view of the matter, the petitioner is at liberty to raise all his defence before the trial Court. This Court does not find any material to quash the entire final report. However, taking note of the nature of the grounds raised, the personal appearance of the petitioner is dispensed with except for receiving copies and answering the charges u/s.313 Cr.P.C questioning and any other hearing that may be fixed by the trial Court. With the above observations this petition is dismissed.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

gba/gpa

To

- 1.The Judicial Magistrate No.1,
Mayiladuthurai,
Nagapattinam District.
- 2.-Do- Thro The Chief Judicial Magistrate,
Nagapattinam.



3.The Inspector of Police,
Sembanar Kovil Police Station,
Nagapattinam District.

4.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.Sellathurai, Advocate Sr.58822
+1cc to M/s.A.Rajesh Kanna, Advocate Sr.58938

Cr1.O.P.No. 20353 of 2017
and
Cr1.M.P.No.3609 of 2017

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srg 29/11/2021