



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.6353 of 2017
and CRL.M.P.No.4682 & 4683 of 2017

Muniyappan

..Petitioner

Vs.

Ammasi

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in P.R.C.No.2 of 2015 under Section 307 IPC on the file of Judicial Magistrate No.I, Mettur, Salem District and quash the same.

For Petitioner :Mr.M.R.Jothimanian

For Respondent :Mr.S.Sasikumar

ORDER

This Criminal Original Petition has been filed to call for the records in P.R.C.No.2 of 2015 under Section 307 IPC on the file of Judicial Magistrate No.I, Mettur, Salem District and quash the same.

2. The crux of the allegations is that the defacto complainant and her daughter usually will return from their work place in the midnight at about 01.00 a.m. by bus. Thereafter, the defacto complainant's husband will go to the bus stand and take them to the house. On 18.10.2014, when they were going towards their house, they found that there was a electric short circuit. By using torch, they found that the accused was hiding in that place in order to obstruct their path way by connecting live wire from the electric pole. Thereby, the defacto complainant lodged the complaint to the Police. However, the Police has not taken the case.

3.It is the contention of the learned counsel for the petitioner that on the date of occurrence, the petitioner had



only given the light connection from the electric pole. It is to be noted that the Defacto complainant and the land lord of the petitioner are adjacent owners and they have already filed a suit in respect of path way obstruction in O.S.No.35 of 2013, which is also pending. He further contended that the submission of the defacto complainant that she and her husband came into their village after completion of work in midnight at about 01.00 am is highly improbable. In this regard, the Police has also closed the case as false complaint. Thereafter, she filed a private complaint and the learned Magistrate has taken cognizance without any materials available on record. Therefore, the entire private complaint is nothing but abuse of process of law. Hence, prayed to quash the proceedings.

4. Learned counsel for the respondent submitted that the learned Magistrate took cognizance on the basis of the evidence adduced by the Defacto complainant and her husband. He further submitted that whether the offence is made out or not is a matter of evidence and it can be seen only at the time of trial. Hence, he opposed to quash the proceedings.

5. Though this Court normally would not embark upon quashing of the final report while exercising jurisdiction under Section 482 Cr.P.C., however, when the complaint itself indicates that the same is nothing but motivated or filed for some other reasons and when the entire FIR if taken on its face value does not constitute any offence under Section 307 IPC, this Court can interfere with the same by exercising its jurisdiction under Section 482 Cr.P.C. to prevent abuse of process of law. The entire allegation is that the accused has given the live wire from the main electric pole, which is highly improbable. Further no such complaint what so ever has been given to the Electricity Board and the police also closed the complaint on the basis of the oral statements. Admittedly, when the parties are at loggerheads in respect of the civil dispute, still forcing the petitioner to face the ordeal of the trial is nothing but abuse process of law.

6. On perusal of the entire materials and statements of P.W.1 and P.W.2 before the learned Magistrate, it is seen that their statements do not indicate that they were abused at the relevant point of time or they sustained injuries. Therefore, taking cognizance for the offence under Sections 294, 341, 323 506(i) of I.P.C without any materials is not according to law.

7. As far as Section 307 of IPC is concerned, except contenting that the accused has fixed the live wire from the



electric pole which is highly improbable, the Electricity Board has also not made any enquiry in this regard. Therefore, this Court cannot permit the false complaints without any materials unearthed by the prosecution. Merely making allegations to attract the ingredients of the offence under Section 307 of I.P.C. is not valid in the eye of law. In such view of the matter, it is a fit case to quash the private complaint.

8. Therefore, the proceedings in P.R.C.No.2 of 2015 on the file of Judicial Magistrate No.I, Mettur, Salem District as against the accused is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

nr/msv

To

The Judicial Magistrate No.I,
Mettur, Salem District.

+1cc to Mr.M.R.Jothimanian, Advocate SR.No.63180
+1cc to Mr.S.Sasikumar, Advocate SR.No.63181

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GP(CO)
GN(03/01/2022)