

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.No.2140 of 2017

and

Crl.M.P.No.1522 of 2017

1.Appadurai

2.Killiappan @ Kiliapan

3.Hari

... Petitioners

Vs.

State of Tamil Nadu, represented by
The Inspector of Police,
Padalam Police Station,
Kanchipuram District.
(Crime No.433 of 2013)

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records in C.C.No.21 of 2016 pending trial on the file of the Judicial Magistrate-I, Chengalpet and quash the same.

For Petitioners: Mr.K.P.Anantha Krishna

For Respondents: Mr. C. Raghavan,
Government Advocate

O R D E R

This petition has been filed to quash the proceedings in C.C.No.21 of 2016 on the file of the Judicial Magistrate-I, Chengalpet.

2. A complaint was given to the respondent/police on 28.05.2013 to the effect that the accused persons involved in a wordy quarrel which happened while filing nomination for the election in a society and the defacto complainant was attacked and he fell down and also in the said process, his spectacle also fell down in the floor and was totally damaged. On completion of the investigation, the final report has been filed for an offence under Section 323, 427 r/w 34 of IPC.

3. Heard Mr. K.P. Anantha Krishna, learned counsel for the petitioners and Mr. C. Raghavan, learned Government Advocate for respondent.

4. A careful perusal of the final report along with the 161 statements recorded from the witnesses shows that there was some confusion that occurred at the time of filing of nomination for elections to various posts in a society. The parties seem to have hurled abuses and there was a small confrontation where each group was pushing one another. In the said melee spectacles of the defacto complainant also fell down and it was totally damaged.

5. In the considered view of this Court, the present case will squarely fall under Section 95 of the Indian Penal Code. In the present case, at the best there was a slight harm that was caused to the defacto complainant due to the arguments that ensued at the time of filing nomination for the election. Such acts causing slight harm will fall under Chapter 4 of IPC which deals with general exceptions. Any of the acts which falls under this chapter will not be considered to be an offence under Section 40 of the Indian Penal Code.

6. The next question that arises for consideration is as to whether such general exception can be extended to a case which is a subject matter of challenge under Section 482 of Cr.P.C. This Court had an occasion to deal with the entire issue, which also involved extending the general exception under Section 95 of IPC and this Court held that general exception under IPC can be applied while considering a petition under Section 482 of Cr.P.C. Useful reference can be made to the judgment of this Court in S. Ramesh and Ors. Vs. State and Ors. reported in 2018-2-LW(Crl) 756.

7. In the considered view of this Court, no injury has been sustained by any one and the spectacles that was worn by the defacto complainant got damaged. This will not require the accused persons to undergo a criminal prosecution at this stage and the same will be an abuse of process of Court which requires the interference of this Court under Section 482 of Cr.P.C.

8. In view of the above, the proceedings in C.C.No.21 of 2016 on the file of the Judicial Magistrate-I, Chengalpet. is hereby quashed and the petition is accordingly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AT
To

- 1.The Judicial Magistrate No.I,
Chengalpattu.
 - 2.-Do- Thro' The Chief Judicial Magistrate,
Chengalpattu.
 - 3.The Inspector of Police,
Padalam Police Station,
Kanchipuram District.
 4. The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.K.P.Anantha Krishna, Advocate Sr.5686

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srg 23/02/2021

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