



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.24147 of 2017 &
Crl.M.P.Nos.13963 & 13964 of 2017

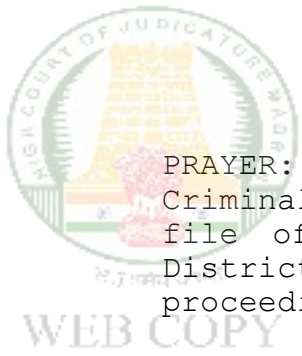
1. Eswaran
2. Dilip
3. Prabhu
4. Tyre Kadai Balu @ Balachandiran
5. Senthil @ Sivakumar
6. JCB Balu @ Balu @ Prakash
7. Natarajan
8. Thangaraj
9. Shanmugam
10. Suresh
11. Dhanapal
12. Thangaraj
13. JCB Sakthivel
14. Balakrishnan
15. Palanivel
16. Venkatesan
17. Selvaraj
18. Arun Kumar
19. Vanjinathan
20. Shanmugam
21. Thangavel
22. Yogananth
23. Kandasamy
24. Magudeshwaran
25. Krishnan
26. Rasu

...Petitioners/ Respondents 1 to 9,
11,13 to 18, 20 to 29

Vs

1. The State represented by
The Inspector of Police,
Thalaivasal Police Station,
Salem District.

2. Usha Rani ...Respondents/Complainant/Defacto
Complainant



PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pending on the file of the learned Judicial Magistrate No.II, Attur, Salem District in S.T.C.No.147 of 2016 and quash the criminal proceedings.

For Petitioners : Mr.E.Kannadasan

For Respondents : R1 - Mr.R.Kishore Kumar,
Government Advocate (Criminal Side)

O R D E R

This petition has been filed to quash the final report filed against the petitioners pending on the file of the learned Judicial Magistrate No.II, Attur, Salem District in S.T.C.No.147 of 2016 for the offences under sections 147, 341 and 188 of I.P.C.

2. The crux of the case of the prosecution is that on 24.09.2015, the accused unlawfully assembled and blocked the National Highways besides they have also wrongfully restrained movement of the public and thereby committed the offence under aforesaid sections.

3. It is the contention of the learned counsel for the petitioners that first petitioner's brother's daughter was sexually assaulted by one Ragu @ Ragupathy against whom a complaint was given by the first petitioner herein. As the same was not enquired by the police, the villagers demanded action against the persons who committed sexual assault. Based on the complaint given by the Village Administrative Officer, they have been prosecuted. Hence, this case is nothing but abuse of process of law.

4. The learned Government Advocate [Criminal Side] submitted that the accused illegally assembled and caused disruption to the public, thereby they have been prosecuted.

5. It is to be noted that while exercising the power under Section 482 of Cr.P.C., the Court should be slow, at the same



time, if the Court finds that from the entire materials collected by the prosecution taken as a whole, would not constitute any offence, in such situation, directing the parties to undergo ordeal of trial will be a futile exercise and it will infringe the right of the persons and in this regard, the Apex Court in State of Haryana and others Vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335, has been held as follows :

'..... (a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused; (b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code; (c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused; (d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code; (e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused; (f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party; (g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.'



such view of the matter, this Court is of the view that continuation of prosecution is nothing but an abuse of process of law.

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9. Accordingly, this Criminal Original Petition is allowed and the final report filed against the petitioners pending on the file of the learned Judicial Magistrate No.II, Attur, Salem District in S.T.C.No.147 of 2016 for the offences under sections 147, 341 and 188 of I.P.C has been quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Judicial Magistrate No.II,
Attur, Salem District.
2. The Inspector of Police,
Thalaivasal Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.E.Kannadasan, Advocate Sr.NO. 14055

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SR(CO)

A.SK(09.12.2021)