



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.27699 OF 2017

AND

CRL.M.P.NOS.15791 & 15792 OF 2017

1. B.Suresh Kumar
2. M.V.Maadavan
3. S.Bruno Selvis
4. K.S.Mohan
5. Kumaran

... Petitioners/
Accused 1 to 5

Vs

1. The State rep. by
The Inspector of Police,
T-10, Tirumullaivoyal Police Station,
Chennai.
(Crime No.712/2015)
2. Malinda Rajeev

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.225 of 2017 pending on the file of the learned Judicial Magistrate, Ambattur, Tiruvallur District and to quash the proceeding against the petitioner.

For Petitioners : Mr.K.Balasubramaniam

For Respondents : R1 - Mr.S.Vinoth Kumar,
Government Advocate
(Criminal Side)

R2 - Left
(Private Notice returned unserved)



O R D E R

This petition has been filed to quash the charge sheet in C.C.No.225 of 2017 pending on the file of the learned Judicial Magistrate, Ambattur, Tiruvallur District against the petitioners for the offences punishable under Sections 142, 448, 427, 428, 294(b), 506(i) of I.P.C. r/w Section 149 of I.P.C. and Section 11 (1) (a) of the Prevention of Cruelty of Animal Act, 1960.

2. The case of the prosecution is that the defacto complainant obtained the license to take care of the stray dogs and he was feeding about ten stray dogs. The accused A1 to A5 stealthily sold three of the dogs belonging to the defacto complainant. Besides, when the same was questioned, the Accused A1 to A5 assembled in front of the house of the defacto complainant at 10.45 P.M. and caused damage to the door of the house of the defacto complainant and abused her and also made a oral threat and thereby, committed offences under Sections 142, 448, 427, 428, 294(b), 506(i) of I.P.C. r/w Section 149 of I.P.C. and also Section 11 (1) (a) of the Prevention of Cruelty of Animals Act, 1960.

3. Learned Counsel for the petitioner submitted that the case is nothing but pursuant to the previous complaint given by the Secretary of the apartment association for causing nuisance as against the defacto complainant. After such complaint was given to the first respondent on 30.09.2015, the defacto complainant presented F.I.R. against these petitioners as if dogs were stolen and the house was also damaged and no materials available on record to constitute any of the offences and the entire case is motivated. Therefore, seeks to quash the same.

4. Heard both the counsels. Perused the CD file.

5. The fact that Association given a complaint on 30.09.2015 against the defacto complainant is not disputed. It is a specific case of the defacto complainant that the accused stealthily removed three dogs maintained by the defacto complainant and when the same was questioned, all the accused assembled and damaged the house of the defacto complainant and besides, they had also abused her.

6. When the materials produced by the prosecution particularly observation of magazar clearly indicates that there is no damage whatsoever as alleged by the defacto complainant and the allegation of the defacto complaint is that there was a damage caused by the association persons and the accused abused them. There are no other serious allegations made. Those



allegations are also vague in nature and merely appears to be a oral threat and even the entire allegations taken as proof does not constitute any offence and at the outset, lodging of the complaint after the accused have preferred a complaint against the defacto complainant itself indicate that the entire complaint is motivated and prosecution also could not unearth any materials to show that there was a damage of the properties of the defacto complainant. Further, there was not even a single material collected by the prosecution to show that there were cruelty on animals and except stating that three dogs are missing, there are no materials available on record to show that the accused has caused any cruelty to the animals. In such view of the matter, continuation of prosecution against the petitioners in nothing but abuse of process of law.

7. Accordingly, this Criminal Original Petition is allowed and the charge sheet in C.C.No.225 of 2017 pending on the file of the learned Judicial Magistrate, Ambattur, Tiruvallur District against the petitioners for the offences punishable under Sections 142, 448, 427, 428, 294(b), 506(i) of I.P.C. r/w Section 149 of I.P.C. and Section 11 (1) (a) of the Prevention of Cruelty of Animal Act, 1960 is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

ggs / kbs

To

1. The Judicial Magistrate,
Ambattur, Tiruvallur District.
2. The Inspector of Police,
T-10, Tirumullaivoyal Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Balasubramaniam, Advocate, S.R.No.67687

CrI.O.P.No.27699 of 2017 and
CrI.M.P.Nos.15791 & 15792 of 2017

KV(CO)
RLP(05/01/2022)