



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2021

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.11842 of 2021

and

Crl.M.P.(MD)Nos.6052, 6053 and 6877 of 2021

1.V.Subbulakshmi

2.V.Prakash

3.L.Kalyani

... Petitioners

Vs.

1.State Represented by

The Sub Inspector of Police,

Kadayam Police Station,

Tenkasi District.

(Crime No.426 of 2020)

2.M.Bharathidasan

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in S.T.C.No.693 of 2021 for the offences under Sections 294(b), 323 and 506(ii) of IPC pending before the learned Judicial Magistrate, Ambasamudaram, Tenkasi District and quash the same as against the petitioners as illegal.

For Petitioners : Mr. J.Pandi Dorai

For Respondents : Mr.M.Sakthi Kumar,

Govt. Advocate (Crl. Side) for R1.

Mr.S.Palani Velayutham for R2

O R D E R

This criminal original petition has been filed to quash the proceedings in S.T.C.No.693 of 2021 on the file of the Judicial Magistrate, Ambasamudaram.

2.The defacto complainant is one Bharathidasan. The defacto complainant alleged that the accused had attacked him on 03.10.2020 at about 10.00 pm, when he was standing in front of his house. Based on his complaint, Crime No.426 of 2020 was registered on the file of Kadayam Police Station. Investigation was conducted and final report was filed against four accused. The learned Judicial Magistrate, Ambasamudaram took cognizance of the offences under Sections 294(b), 323 and 506(i) of IPC. Summons were issued to the accused. To quash the proceedings, this criminal original petition



has been filed.

3.The learned counsel for the petitioners reiterated all the contentions set out in the memorandum of grounds and submitted that the petitioners have been implicated without any justification.

4.Per contra, the learned Additional Public Prosecutor as well as the learned counsel for the defacto complainant submitted that no case for quashing has been made out.

5.I carefully considered the rival contentions and went through the materials on record.

6.It is seen that on 16.12.1992, marriage between one Essakiammal and one Balachandran was solemnized. The said Essakiammal is none other than the paternal aunt of the second petitioner herein. Balachandran is the elder brother of the defacto complainant herein. The elder daughter of Balachandran and Essakiammal committed suicide on 23.07.2011 by self immolating herself. The second daughter also committed suicide on 25.06.2016 by self immolating herself. The said Bharathidasan is a chronic alcoholic. Essakiammal filed H.M.O.P.No.80 of 2020 seeking dissolution of her marriage with the said Balachandran. Thus, there arose a serious dispute between the accused herein and the elder brother of the defacto complainant herein. In this background, cases have been mutually registered against one another. Crime No.176 of 2014 was registered on the file of Kadayam Police Station against Balachandran and Bharathidasan. It was charge sheeted and taken on file as C.C.No.361 of 2017 on the file of the Judicial Magistrate, Ambasamudaram. Crime No.393 of 2020 was registered against Balachandran, Bharathidasan and Janaki. It is in this background, Bharathidasan has given the impugned complaint on 04.10.2020. It can be seen therefrom that Bharathidasan was allegedly assaulted by Vijayakumar. But then, Bharathidasan has implicated not only Vijayakumar but also his wife/Subbulakshmi, his mother/Kalyani and his son/Prakash. The mother, wife and son of Vijayakumar are the petitioners in this criminal original petition. Even according to the defacto complainant, it is Vijayakumar, who had hit him on his head with wooden log. The petitioners herein are said to have beaten him with hands. Since Bharathidasan has been slapped with as many as three criminal cases and he has also been assaulted by Vijayakumar, one can come to the safe conclusion that Bharathidasan had chosen to implicate the present petitioners also. It has been held by the Hon'ble Supreme Court in Bhajan Lal's case that if the Court can come to the conclusion that the prosecution is attended by mala fides and was instituted with an intention to wreak vengeance, then, it is a ground for quashing. The case on hand fulfils the said parameter. I therefore quash the impugned proceedings in S.T.C.No.693 of 2021 on the file of the Judicial Magistrate, Ambasamudaram insofar as the petitioners are concerned.

<https://hcservicescourts.gov.in/hcservices/> I have come to the conclusion that there are *prima facie*



materials against Vijayakumar, Vijayakumar of course has to face the prosecution in S.T.C.No.693 of 2021 on the file of the Judicial Magistrate, Ambasamudaram. I also make it clear that since the impugned prosecution has been quashed on merits, the second petitioner herein, who is a youngster will not suffer any disqualification in the matter of public employment on the strength of having been implicated in a criminal case.

7.This criminal original petition is allowed on these terms. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Judicial Magistrate,
Ambasamudaram,
Tenkasi District.
- 2.The Sub Inspector of Police,
Kadayam Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.PANDI DORAI, Advocate (SR-38055[F] dated 09/12/2021)

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MGJ(09.12.2021) 3P 5C