



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 24.02.2021

DATE ON WHICH PRONOUNCED : 25.03.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVA

Crl.O.P.(MD)No.11034 of 2017

and

Crl MP(MD)Nos.7538 & 7539 of 2017

Shanmugam ... Petitioner/Accused No.2
Vs.

1.State represented by
The Inspector of Police,
Mannur Police Station,
Crime No.29/2008
Tirunelveli District. ... Respondent/Complainant

2.Mohan Raj ... Respondent/Defacto Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in C.C.No.146 of 2011, on the file of the Judicial Magistrate No.V, Tirunelveli, Tirunelveli District and quash the same.

For Petitioner : Mr.K.Jeganmohan for
Mr.K.Prabhu
For R1 : Mr.M.Ganesan,
Government Advocate (Crl.Side)
For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.146 of 2011, on the file of the Judicial Magistrate No.V, Tirunelveli, Tirunelveli District.

2. The case of the prosecution as narrated in the final report filed by the first respondent before the Trial Court is as follows:-

i) The defacto complainant by name, Mohan Raj, is residing at Pudukulam Street, Kalakudi. The first accused is the brother of the defacto complainant. The second accused is the son-in-law and the third accused is son of the first accused. The 4th accused is a relative of the first accused.

ii) The father of the defacto complainant by name, Samuvel Vedanayagam was the Correspondent of a School called Harijan Elementary School, Kalakadu. After his death, the first accused, who is the elder son of the Samuvel Vadanayagam was managing the affairs of the School. The defacto complainant, who is the younger son of Samuvel Vedanayagam, demanded a share in the management of the School. He also demanded that his would-be daughter-in-law must also



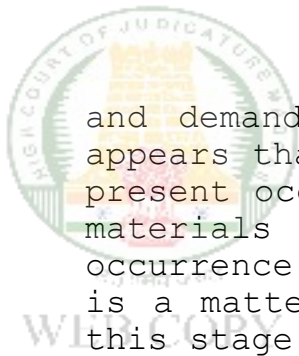
be given a teacher post in the School, for which, the first accused refused. Because of that, there was enmity between them.

iii) Because of the previous enmity, on 17.12.2007, at about 00.30 hours, when the defacto complainant was sleeping along with his third wife Vellaiyammal at Kalakudi Colony First Street house, all the accused with criminal intention of doing criminal activities, assembled in front of the house and abused them in filthy language and instigated the others to damage the house. As a result of which, the accused Nos. 3 & 4 with iron rods, damaged the window, telephone box and welding machine worth about Rs.50,000/-. On hearing the noise, the defacto complainant, came out of the house, all the accused threatened him stating that they will one day kill him and thereby, all the accused persons have committed offences punishable under Sections 294(b), 506(ii) IPC and Section 3 of TNPPDL Act, 1992 r/w 34 IPC and a case was registered in Crime No.29 of 2008. After completion of investigation, final report was filed before the Judicial Magistrate No.V, Tirunelveli, Tirunelveli District and the same was taken cognizance, C.C.No.146 of 2011.

3. To quash the final report, insofar as this petitioner is concerned, this Criminal Original Petition is filed mainly on the ground that when the first respondent filed a final report originally, he was not added as an accused. Originally, final report was filed only against the accused Nos.1 & 3, by name, David Raj @ Rajasekar and Suresh. The final report was also taken on file by the Trial Court in C.C.No.146 of 2011. At that time, the defacto complainant filed a petition for further investigation as per the order of the Court. Further investigation was undertaken and after recording the statements of the witnesses, it came to the notice of the Investigating Officer that two more persons namely, this petitioner, by name, Shunmugam and another Ramachandran were also involved in the occurrence. So, an alteration report was filed before the Trial Court, which was taken on file. So, according to the petitioner, the investigation done by the first respondent is not valid and no specific allegations are made against this petitioner in the alteration report and delay in lodging the First Information Report was not explained by the defacto complainant during investigation. The occurrence said to have been taken place on 17.12.2007, at about 00.30 hours. The complaint came to be given on 04.02.2008, at about 00.30 hours.

4. Heard both sides.

5. Perusal of entire records as well as the final report filed by the first respondent and from the statements of the witnesses recorded under Section 161 Cr.P.C, shows that dispute existed between the defacto complainant and these accused persons including the petitioner herein, over the affairs and management of an Elementary School. As mentioned earlier, a demand, appears to have been made by the defacto complainant for sharing the administration



and demanded a teacher post for his would-be daughter-in-law. It appears that the demand was not accepted. Enraged over the same, the present occurrence said to have taken place. It is seen that enough materials have been collected during investigation, whether the occurrence took place as mentioned in the alteration report or not, is a matter for trial. The factual aspects cannot be gone into at this stage.

6. Moreover, whether the delay in lodging the complaint, affect the case of the prosecution is also a matter for consideration during the trial proceedings. There is a clear allegation to the effect that this petitioner has took part in the alleged occurrence and so, simply because, in the original final report, the name of the petitioner did not figure as an accused, the materials collected during the reinvestigation, cannot be discarded at this stage. So, no strong case has been made out by the petitioner for quashing the Charge Sheet filed against this petitioner. Hence, I find no merits, in this petition and it is liable to be dismissed.

7. In the result, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 No.V,
Tirunelveli, Tirunelveli District.
- 2.The Chief Judicial Magistrate, Tirunelveli.
- 3.The The Inspector of Police,
Mannur Police Station,
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.11034 of 2017and
Crl MP(MD)NoS.7538 & 7539 of 2017
25.3.2021

SSS(CO)

KB(24.04.2021) 3P 5C

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