



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 23.03.2021

Delivered On: 19.04.2021

CORAM

THE HONOURABLE **MR. JUSTICE G. ILANGOVAN**

Crl.O.P. (MD).No.14022 of 2017

and Crl.M.P. (MD).Nos.9410 & 9411 of 2017

WEB COPY

1.P.Madhavan

2.P.Ulaganathan

... Petitioners/Accused Nos.3 & 7

Vs.

1.TheInspector of Police,

Ilayankudi Police Station,

Ilayankudi, Sivagangai District. ... Respondent No.1/Complainant

2.Murugan

... Respondent No.2/

Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the charge sheet in C.C.No.67 of 2017 pending before the learned District Munsif cum Judicial Magistrate, Ilayankudi and quash the same as illegal as against these petitioners.

For Petitioners : Mr.S.Louis for Mr.R.Venkatesan

For Respondents : Mr.M.Ganesan for R1

Government Advocate (Crl. Side)

Mr.P.Ramachandran for R2

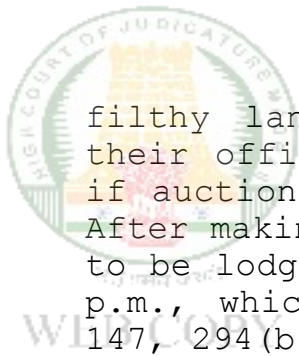
ORDER

This petition has been filed to quash the charge sheet in C.C.No.67 of 2017 pending before the learned District Munsif cum Judicial Magistrate, Ilayankudi.

2.The brief facts are as follows:

The second respondent is the defacto complainant in this case. He lodged a complaint before the first respondent police on 08.04.2016, at about 7.00. p.m. with the following allegations.

3. He was working as a Village Administrative Officer, Pudukottai Group as in-charge officer. On 08.09.2016, a public auction was conducted in the presence of Sivagangai Revenue Divisional Officer at about 3.45 p.m in the Taluk Office, Ilayankudi for cutting and removing seemaikaruvelai trees. After the completion of the auction, at about 4.45 p.m. the accused persons namely Valarmurugan, Muralithas, Madhavan, Nakesh, Vengatesan, Chithiravel, Ulaganathan, Mathi, Thanneermalai and some others forcibly entered into the office by pushing away the Sub Inspector of Police namely Jeyaraj, Anthoni Raj and constable Sivaramakrishnan, who were on bandobasth duty and threatened them not to conduct any auction. They also abused the officials in



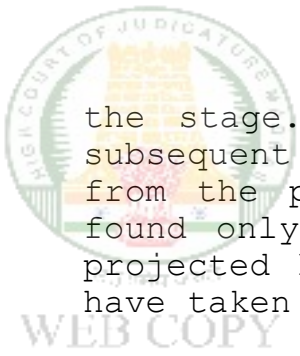
filthy language. They prevented the officials from discharging their official duty and also intimidated them, they will kill them if auction is conducted and ran away from the place of occurrence. After making consultation of the higher officials the complaint came to be lodged by the defacto complainant on 08.09.2016 at about 7.00 p.m., which was registered in Crime No.254 of 2016 under Section 147, 294(b), 353 and 506(ii) IPC. The first respondent took up the investigation. Recording the statement of witnesses and officials, filed a final report before the District Munsif cum Judicial Magistrate, Ilayankudi, which was taken on file in C.C.No.67 of 2017.

4. Challenging the final report, seeking quashment of the same, this petition is filed mainly on the ground that none of the allegations mentioned in the final report attract any of the ingredients of the offences set out and attract against these petitioners. The first petitioner was not present in the place of occurrence and second petitioner was also merely present in the place to see the auction programme. They never indulged in any such activities. The officials did not conduct the auction programme at the instance of some contractors and later preferred the complaint making allegations against the villagers to save their skin. Seeking quashment of FIR, the petitioners filed Crl.O.P.(MD).No.22555 of 2016, later it was withdrawn.

5. So, from the reading of the First Information Report, it is seen that the trouble arose when the officials were conducting auction in the Village for removing the Seemaikaruvelam Trees.

6. According to the defacto complainant, the petitioners abused them in filthy language and prevented them from conducting the auction. Among the 9 accused persons, accused Nos.3 & 7 have preferred this Criminal Original Petition. The statement of the witnesses were recorded, during the course of investigation. It shows that *prima facie* materials have been collected by the Investigating Officer. There is no reason for the defacto complainant to give such a fake complaint making serious allegations against the accused persons. The occurrence said to have took place at 4.45 p.m on 08.09.2016. It was reported to the police on the same date, at about 07.00 p.m. So, there is no delay in lodging the complaint.

7. According to the petitioners, there is clear statement by the defacto complainant to the effect that after making the verbal abuse, they immediately ran away from the place of occurrence. So, according to them, this statement clearly shows that the petitioners did not indulge in any illegal activities. By running away from the place of occurrence, show that they have not indulged in any criminal activities. The meaning of the argument is that a person, who, ran away from the place of occurrence, would not have committed any offence. But, such sort of contention, cannot be accepted, in



the stage. Whether they ran away from the place of occurrence subsequent to the alleged threat and abuse or whether they ran away from the place of occurrence due to fear or other reason can be found only in the course of trial. So, this statement, cannot be projected by the petitioners, show that no such occurrence, would have taken place.

8. The second contention is that the first petitioner belongs to Varunthi Village, Ilayangudi Taluk, Sivagangai District and permanently settled in Thirupur due to his business and at that particular alleged occurrence, he came to the native place for a marriage function and went back on 09.09.2016 and he was not at all present in the place of occurrence. But, his name was also clearly mentioned with his father's name. So, the argument, that he was not at all present in the place of occurrence and only due to marriage function, he visited the Village and went back on 09.09.2016, cannot be a matter for consideration, at this stage. It is a matter for evidence before the Trial Court. So, the argument is not available to the first petitioner at this stage.

9. Regarding the second petitioner, it has been stated that he was simply present and watching the event of occurrence. But, his name is not specifically mentioned in the First Information Report. Enough materials have been collected by the Investigating Officer by recording the statements of witnesses, who were present in the place of occurrence. So, this argument is not also available to the second petitioner at the stage whether he was simply witnessing the occurrence are took part in the criminal activity can be decided only during the course of trial.

10. The contention urged by the petitioners is that the officials were taking sides with one group in the Village and that was objected by the Villagers and to save their skin of the officials, the present complaint has been given. But, this sort of argument cannot be advanced and decided in this petition. Disputed question of fact, cannot be gone into.

11. So, none of the ground mentioned in the petition are sufficient to quash the Calendar Case. So, this Criminal Original Petition deserves dismissal and accordingly, the same is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)



To

- 1.The District Munsif cum Judicial Magistrate, Ilayankudi.
- 2.The Inspector of Police, Ilayankudi Police Station, Ilayankudi.
- 3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.RAMA CHANDRAN, Advocate (SR-16904[F] dated 21/04/2021)

TM/DSS

Crl.O.P.(MD).No.14022 of 2017
19.04.2021

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