



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 09.02.2021

DATE ON WHICH PRONOUNCED : 05.03.2021

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.8779 of 2017
and
Crl.MP (MD)Nos.5951 & 5952 of 2017

- 1.A.Ramesh
- 2.Kattayan Kadarkarai
- 3.Sivanraj
- 4.S.Muthukumar
- 5.Sivan Nadar
- 6.Pathamuthu
- 7.V.Mariyappan
- 8.Mariyappan
- 9.Ramasamy
- 10.Selvaraj
- 11.Murugesu Pandian
- 12.S.Madasamy
- 13.P.Megathuraja
- 14.M.Paramasivam
- 15.M.Soundarapandi
- 16.M.Ravikumar
- 17.A.Nagarajan
- 18.Muppidari



19.P.Murugesan

20.S.Rajeshwaran

21.S.Paneerselvam

... Petitioners/Accused Nos.1 to 21

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Vs.

1.The State,

Rep by Inspector of Police,

Srivilliputhur Town Police Station,

Virudhunagar District.

(Crime No.291 of 2016)

2.S.Ramar

... Respondents/Complainants

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in pertaining to Charge Sheet in C.C.No.10 of 2017 on the file of the learned Magistrate Court No.II, Srivilliputhur and quash the same.

For Petitioners : Mr.M.Solaisamy

For R1 : Mr.R.Anandharaj

Additional Public Prosecutor

For R2 : Mr.V.Sasikumar

ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.10 of 2017 on the file of the learned Judicial Magistrate Court No.II, Srivilliputhur.

2.Brief facts of the case:-

The respondent herein, filed a complaint before the first respondent police, which was registered in Crime No.291 of 2016 under Section 420, 294 (b), 506 (ii) IPC @ 294 (b), 506 (ii) and 109 IPC with the following allegations;

The defacto complainant is a member in Perumalpatti Nadar Uravinmurai Sangam, Srivilliputhur, Virudhunagar District. During the year 2012 - 2013, the Office Bearers of the Sangam misappropriated a sum of Rs.8 Lakhs. Without proper vouchers and permission of the Sangam, they also, created forged documents. Later, during the year 2013 - 2014, one Vanniyaraj, became the President of the Sangam and he has appointed an Audit Committee to look into financial affairs. The defacto complainant was also one of the member in the said Audit Committee. During the audit, they found out the above said misappropriation and misutilization of the amount.

3. Based upon the Audit Report, they directed the accused to remit the amount. But, they refused. Later, during the year 2015 - 2016, another Office Bearers took over the Sangam and they



threatened the defacto complainant and others and also ex-communicated them. Because of this ex-communication, they suffered a lot.

4. On 25.04.2016, at about 09.00 p.m, when the defacto complainant was talking with one Manickam, at that time, the accused Muthukumar and Muttal Ramasamy along with 19 named persons came there and threatened him that they will kill him by running a vehicle over him. So, he became panic. One Manickam intervened and he was also threatened and abused in filthy language. They also abused the defacto complainant with filthy language. So, he lodged a complaint before the respondent police.

5. On the basis of the complaint, the respondent police took up the investigation and recorded the statement of the witnesses and after completing the investigation, they filed a final report, making allegations against the petitioners for having committed offences punishable under Sections 294 (b), 506(ii) and 109 of IPC.

6. To quash the charge sheet, this petition is filed by the petitioners, mainly on the ground that due to difference of opinion in the Nadar Uravinmurai, false complaint has been lodged by the defacto complainant. So, none of the allegation mentioned in the charge sheet attract the ingredients of the offence alleged.

7. Per contra, it is the contention on the part of the learned Additional Public Prosecutor that based upon the complaint given by the second respondent, during investigation, *prima facie* materials were collected against the petitioners and so, this petition is liable to be dismissed.

8. From the facts narrated above and in the light of the rival contention, put forth by the parties, it is seen that a dispute arose between the second respondent as well as the accused regarding the affairs of the Nadar Uravinmurai Sangam situated at Srivilliputhur, Virudhunagar District, which is also called as Perumal Nadar Uravinmurai Sangam. From the reading of the complaint, it is seen that financial irregularities were committed by some of the past Office Bearers and according to the defacto complainant, he found out misappropriation of amount of the Sangam on auditing. But, counter complaint has also been filed against the defacto complainant and others by one Muthukumar, who is the fourth petitioner herein, before the second respondent, which was also registered in Crime No.541 of 2016 on 12.07.2016 under Section 147, 294 (b), 506 (i) and 420 IPC, wherein, also it has been stated that the financial irregularities were committed by the second respondent herein and others, who were the Office Bearers, during the relevant time. When they demanded, payment of that amount, they were also threatened and abused him with filthy language.

9. It is seen that rival complaints have been registered with
<https://hcservices.ecourts.gov.in/hcservices/> financial irregularities alleged to have been



committed by the Office Bearers.

10. Originally, the case was heard and reserved for judgment and it was again posted for clarification regarding the fact of Crime No.541 of 2016. But, the parties were not in a position to inform the Court about the result of the investigation in that case. But, what ever it may be, it is seen that complaint and counter complaint have been registered against each others.

11. Reading of the complaint shows that the defacto complainant wanted the police to take action against these petitioners for cheating as well as for ex-communicating him. But, after investigation, final report has been filed by the police by altering the offences to under Sections 294 (b), 506 (ii) and 109 IPC. The allegation of cheating that has been alleged against the misappropriation of Rs.8 lakhs is not the subject matter of the final report. Moreover, as mentioned earlier, the counter complaint has also been given, making allegation, against the defacto complainant and others over that amount. So, offence of cheating is not attracted and so, the Investigation Officer has not filed final report by making this offence.

12. With regard to 109 IPC, there is no allegation in the First Information Report that only as per the abetment made by the other accused persons, the accused namely, Muthukumar and Ramasamy abused him with filthy language and tried to kill him by running vehicle over him. Moreover, with regard to the allegation of ex-communication, the defacto complainant has also filed a writ petition in W.P(MD)No.13498 of 2016 before this Court, which is still pending and he can work out his remedy, in the writ petition. So, except specific materials against the petitioners namely, Muthukumar and Ramasamy, no materials is available against the other petitioners. Moreover, with regard to the ex-communication, the defacto complainant cannot be proceeded against these petitioners in this case. If at all, he can work out his remedy as per law, if so advised, that criminal prosecution will lie for such an allegation.

13. Moreover, with regard to the criminal intimidation said to have been committed by the petitioners with regard to the misappropriation of the amount, no specific date, is mentioned by the defacto complainant in the complaint. A bald allegation is stated to the effect that when the defacto complainant questioned the petitioners about the misappropriation, they threatened him that they will kill him. But, this will not amount to criminal intimidation as defined under Section 503 of IPC since mere verbal utterance will not attract the offence. So, the petition is partly liable to be allowed.

14. Insofar as the petitioners 4 & 9 is concerned, this petition stands dismissed and they are directed to face the trial.

<https://hcmisecourts.gov.in/hcmisecourts>

1 to 3, 5 to 8 and 10 to 21



are concerned, this petition stands allowed and the charge sheet filed by the first respondent against them, is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /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 Magistrate Court No.II,
Srivilliputhur.
- 2.The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.8779 of 2017

and

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KMV(CO)

KK(18.03.2021) 5P 4C