



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.OP(MD)No.9765 of 2017

and

Crl.MP(MD)Nos.6661 & 6662 of 2017

WEB COPY

1.V.N.Sivakumar

2.S.M.Pitchaipandian

3.J.Thamarai Chelvan

4.J.Jeysingh

: Petitioners

Vs.

P.Pandiyarajan

: Respondent

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the private complaint in C.C.No.13 of 2017 on the file of the learned Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioners : Mr.N.Sathish Babu

For Respondent : Mr.A.N.Ramanathan

ORDER

The petitioners are the Office Bearers of Madurai Aruppukottai Nadar Uravinmurai Mahalir Melnilaipalli Paribalana Sabai. According to them, they are the elected Secretary, President, Treasurer and Officer Bearers of the said Society and they have been elected in the general body meeting. The Form VII filed by them was also accepted by the Registrar of Societies and they are functioning as the Office Bearers of the said Society. They have filed this criminal original petition seeking to quash the private complaint pending against them in C.C.No.13 of 2017 on the file of the learned Judicial Magistrate No.IV, Madurai.

2. The respondent, who is said to be a member of the Society, lodged a complaint as against the petitioners that one Sivasami was elected as Secretary of the Society in the year 2012 and as against that election, one Vanniaperumal and Kabilan have filed a suit before the Additional District Munsif Court, Madurai, in O.S.No.1052 of 2012 and in view of the pendency of the suit, the District Registrar has refused to receive the Form VII filed by them. According to the respondent, when a general body meeting was convened on 07.09.2014, the petitioners 2 & 3, being the President and Treasurer, failed to submit proper accounts of the Society and therefore, the erstwhile Secretary Sivasamy lodged a complaint

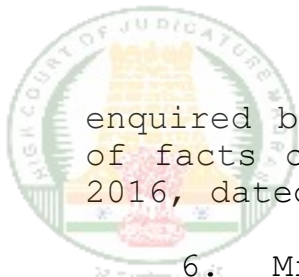


before the Commissioner of Police, Madurai City and later, he was admitted in a Hospital due to his ill health.

3. It is the further case of the respondent that the petitioners have created a forged medical certificate, as if the said Sivasamy, Secretary, was not having a good health condition, declared themselves as Office Bearers of the Society for the interregnum period and also removed 16 members from the primary membership. They also filed a suit in O.S.No.1140 of 2014 restraining those members from interfering with the peaceful administration of the Society. For the forged documents created by the petitioners, the respondent has lodged a complaint before the Keeraithurai Police on 22.02.2016 and the same was registered in Crime No.154 of 2016 for the offence under Sections 406 & 420 IPC. The police, after investigation, has closed the case as mistake of facts. As against the closure report, the respondent has filed a protest petition before the learned Judicial Magistrate No.IV, Madurai and the same is treated as a private complaint as against the petitioners for the offence under Sections 465, 467, 471, 406 & 420 IPC, which is challenged herein.

4. Mr.N.Sathish Babu, learned Counsel appearing for the petitioners submitted that the petitioners are elected Office Bearers of the Society and the Society is running a Girls Higher Secondary School, which is a Government Aided Institution started in the year 1967 and there are around 2500 students studying in that School. The election of these petitioners are approved by the Registrar of Societies and the Director of School Education. The Form VII filed by the petitioners have been approved by the Registrar of Societies. The respondent, who was a member of the Society, and others were removed from the primary membership in the general body meeting held on 02.12.2012. Even thereafter, the respondent, who lost the election, was interfering with the peaceful administration of the Society and therefore, a criminal case has also been lodged by the School Headmistress as against the respondent and others before the Keeraithurai Police and the same was registered in Crime No.652 of 2016 under Sections 447, 353 IPC.

5. The learned Counsel further submitted that the erstwhile Secretary, Sivasamy, has resigned due to his ill health on 07.09.2014 and thereafter, the petitioners were elected in the extraordinary general body meeting held on 28.09.2014. Much prior to the selection of the petitioners, the respondent was removed even during the period of the erstwhile Secretary, Sivasamy. The said Sivasamy has also filed a suit before the District Munsif Court as against the respondent and others in O.S.No.1036 of 2012 and obtained an order of injunction as against the respondent and others not to interfere with the administration of the Society in I.A.No.1013 of 2012. Now, the respondent, who lost the election, in order to harass the Office Bearers and to intimidate them, has



enquired by the Keerathurai Police Station and referred as mistake of facts on 20.04.2016. The final report filed in Crime No.154 of 2016, dated 20.04.2016 is also placed before this Court.

6. Mr.A.N.Ramanathan, learned Counsel appearing for the respondent / complainant submitted that the petitioners have created forged certificates and that is the subject matter of the complaint, which can only be decided during the trial. Though his complaint was referred as mistake of fact, the private complaint is entertained on the protest petition filed by the respondent as against the referred charge sheet. According to the learned Counsel, there are specific allegations as against the petitioners, which can be decided only during the trial.

7. This Court paid it's anxious consideration to the rival submissions made and also to the materials placed on record.

8. The impugned complaint is entertained by the learned Judicial Magistrate on the protest petition filed by the respondent / complainant. Earlier, the complaint of this respondent, which was registered in Crime No.154 of 2016, was closed as mistake of fact. The averments in this complaint are that the petitioners / Office Bearers of the Society have created some forged certificates and with the help of those certificates, conducted an election and declared themselves as Office Bearers. As per the available materials, the respondent was also a member of the Society, who contested the election in the general body meeting held in the year 2012 and failed. Thereafter, he was removed by the resolution of the Society dated 02.12.2012 and it appears, the respondent has not challenged the same in the manner known to law. As per the available materials, this respondent is not even a member of the said Society. The Form VII filed with regard to the removal of the respondent and others has also been accepted by the Registrar of Societies and the respondent has not taken any steps as against the same.

9. The petitioners are said to be the elected Office Bearers of the Society and they are functioning as the Secretary, President, Treasurer and Vice President of the Society and also running the Educational Institution pursuant to the orders of the District Registrar of Societies and the Director of School Education. The respondent has not challenged those orders of the District Registrar of Societies and the Director of School Education in the manner known to law.

10. Under such circumstances, this Court is of the view that on a vague allegation of a removed member of the Society, this private complaint cannot be maintained as against the elected bodies of the Society and therefore, the proceedings pending against the petitioners in C.C.No.13 of 2017 on the file of the learned Judicial Magistrate No.IV, Madurai, is hereby quashed.



11. In fine, this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

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/ /2021

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.IV,
Madurai.

Copy to

The Section Officer, Criminal Section.
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-17611[F] dated
27/04/2021)

Cr1.OP(MD)No.9765 of 2017
26.04.2021

PM(CO)
KB(13.05.2021) 4P 4C