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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.03.2022
PRONOUNCED ON : 07.04.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.15727, 15728, 15729 of 2015,
Crl.O.P.No.14864 of 2021
Crl.M.P.No.8086 & 8087 of 2020 and
M.P.No.1 of 2015

In all the Crl.O.P.'s:-

N.Narayana Reddy

... Petitioner/Sole
Accused

Vs.

In Crl.O.P.No.15727 of 2015:-

1. The State rep by
The Sub Inspector of Police
Denkanikottai Police Station,
Krishnagiri District.

2. Madhamma

... Respondents/Complainants
& Defacto Complainants

In Crl.O.P.No.15728 of 2015:-

1. The State rep by
The Sub Inspector of Police
Denkanikottai Police Station,
Krishnagiri District.

2. Rani

... Respondents/Complainants &
Defacto Complainants

In Crl.O.P.No.15729 of 2015:-

1. The State rep by
The Sub Inspector of Police
Denkanikottai Police Station,
Krishnagiri District.

2. Maragadham

... Respondents/Complainants &
Defacto Complainants



In CrI.O.P.No.14864 of 2021:-

1. The State rep by
The Sub Inspector of Police
Denkanikottai Police Station,
Krishnagiri District.

2. C.Suresh Babu

... Respondents /Complainants &
Defacto Complainants

Prayer in CrI.O.P.No.15727 of 2015:- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records of the case in C.C.No.46 of 2015, on the file of the learned District Munsiff cum Judicial Magistrate, Denkanikottai and quash the same.

Prayer in CrI.O.P.No.15728 of 2015:- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records of the case in C.C.No.45 of 2015, on the file of the learned District Munsiff cum Judicial Magistrate, Denkanikottai and quash the same.

Prayer in CrI.O.P.No.15729 of 2015:- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records of the case in C.C.No.44 of 2015, on the file of the learned District Munsiff cum Judicial Magistrate, Denkanikottai and quash the same.

Prayer in CrI.O.P.No.14864 of 2021:- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to C.C.No.65 of 2020, pending on the file of the Judicial Magistrate Court, Denkanikottai and quash the same.

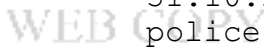
In all CrI.O.P.'s:-

For Petitioner : Mr.R.Jayaprakash for
M/s.R.S.Maitreya

For Respondents : Mr.R.Murthi, Government Advocate
(Criminal Side) for R1
Mr.Rajarathinam for
M/s.A.Ashwin Kumar for R2.

COMMON ORDER

1.CrI.O.P.Nos.15727 of 2015, 15728 of 2015, 15729 of 2015 and 14864 of 2021 are filed to call for the records in C.C.Nos.46 of 2015, 45 of 2015, 44 of 2015 and 65 of 2020



2.The final report in C.C.No.44 of 2015 reads as follows, on 31.10.2014 at about 10 a.m. near post office, Denkanikottai police limit, petitioner Narayana Reddy had scolded defacto complainant Maragadham in a filthy language, hit her with a stick on her private part, threatened to kill her and thus petitioner said to have committed the offences punishable under Sections 354, 506 (I) I.P.C. r/w Section 4 of the Tamil Nadu Prohibition of Women Harassment Act.

4.The final report in C.C.No.46 of 2015 reads as follows, that on 03.11.2014, at about 10 a.m. near Sub Registrar Office, Denkanikottai within the jurisdiction of Denkanikottai police station, petitioner scolded defacto complainant Madhamma in a filthy language and threatened to kill her. Thus, petitioner said to have committed the offences punishable under Section 506 (I) I.P.C. read with 4 of the Tamil Nadu Prohibition of Women Harassment Act.

5.The final report in C.C.No.65 of 2020 reads as follows, that on 23.07.2019 at about 15.00 hours, near Thandarai bus stop within the jurisdiction of Denkanikottai police station in front of defacto complainant Suresh Babu's land, petitioner had scolded witness Kaliammal in a filthy language, hit her with his hand on her back. He threatened, holding an iron pipe, to kill her and PW1 Suresh Babu and pulled the hair and saree of Kaliammal. Thus, petitioner said to have committed the offences punishable under Sections 294 (b), 323, 506 (i) I.P.C. and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002.

6. On the basis of the final reports filed against the petitioner, the aforesaid cases in C.C.No.44 of 2015, C.C.No.45 of 2015, C.C.No.46 of 2015 and C.C.No.65 of 2020 had been taken cognizance by the learned Judicial Magistrate, Denkanikottai. Challenging these cases, these Criminal Original Petitions have been filed for quashing.

7. Learned counsel for the petitioners submitted that all these four cases had been registered at the instance and at the



instigation of defacto complainant in C.C.No.65 of 2020, Suresh Babu. Petitioner and his brother own vast extent of lands more than 500 acres. There are civil litigations pending in connection with the property. Petitioner's father had filed partition suit in O.S.No.123 of 1960 against his brothers. The suit was decreed, against the judgment first appeal and second appeals are filed and pending. During the pendency of the civil litigation, defacto complainant in C.C.No.65 of 2020 purchased 6 acres of land from one of the shareholders. When the civil litigations are pending, he tried to change the patta in his name and take possession of the property. That was resisted by the petitioner by initiating appropriate legal action. Therefore, to make the petitioner to come to terms with him, Suresh Babu instigated the defacto complainants in other three cases and Kaliammal in C.C.No.65 of 2020 to give a false complaint. While other three cases had been registered at the instance of Maragadham, Rani and Madhamma, the F.I.R. concerned in C.C.No.65 of 2020 was registered at the instance of Suresh Babu. The complaints given by Maragadhama, Rani and Madhamma were originally sent to Chief Minister's cell directly instead of giving the complaint to the jurisdictional police station. The complaints sent to Chief Minister's cell were forwarded to the first respondent's police station and F.I.R.'s had been registered. Petitioner is 77 year old person with the blood cancer disease. He is taking multiple medicines and he is also an insulin dependent person. Just to see that he is arrested and put behind the bars, so that he loses his life, these cases are foisted against the petitioner at the instance of Suresh Babu. Petitioner has produced documents to show that he was in Chennai and taking treatment on the date when it is alleged that he committed offence. The reading of the complaints, statement of witnesses show that identical allegations were made against the petitioner. The complainant in one case is a witness in other case. It is clear abuse of process of law. Therefore, learned counsel for the petitioner prays for quashing of cases in C.C.Nos.44, 45 & 46 of 2015 and C.C.No.65 of 2020.

8.In reply, learned counsel for second respondent submitted that the claim that petitioner is an aged person and suffering from blood cancer and other diseases are not ground for quashing the criminal complaint. Malafideness is also not a ground for quashing the case. Petitioner is not physically immobile as projected by the petitioner. Even as per the documents produced by the petitioner, he was active and mobile, he attended this Court for conducting his cases. Even in 2022, he filed case against Suresh Babu and others. Therefore, the claim that petitioner is aged and suffer from ill-health cannot be accepted. It is true that Suresh Babu purchased the property during the pendency of litigation. It is not illegal. His right is subject to the rights and liabilities of his vendor. He is in



possession and enjoyment of the property purchased by him and he constructed a building. Petitioner had repeatedly harassed the defacto complainants and victim in C.C.No.65 of 2020 that they should not go to work under Suresh Babu. Left with no option, they gave individual complaints. The complaint allegations, contents of the statement of witness filed along with the final report have to be taken as true on its face of value. When that be the case, there are materials available to frame appropriate charges against the petitioner. Since, the police had not taken any action, the defacto complainants had sent the complaints to the Chief Minister's cell and that was registered as F.I.R. and fructified into final reports. Final reports, as said earlier make out prima-facie case for framing charges against the petitioner. Therefore, he prayed for dismissal of these Criminal Original Petitions.

9.He relied on the judgment reported in 2004 Supreme Court cases (Cri) 118 M.Narayandas Vs. State of Karnataka and Others, on the principles regarding the quashing of the criminal case.

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulate and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying a investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.



genuineness or otherwise of the allegations made in the FIR. The Court also cannot inquire whether the allegations in the complaint are likely to be established or not.

10. He also relied on the judgment in 1996 Supreme Court Cases (Cri) 150 State of Maharashtra Vs. Ishwar Piraji Kalpatri and others, for the proposition that the allegation of malafide is not a ground for quashing the complaint. It is observed in the judgment that,

18. The last ground which had been given by the learned Judge for quashing the prosecution is that the appellants are guilty of mala fides.

...

21. On the facts of this case, we are not satisfied that the appellant had acted in the mala fide manner and we are constrained to observe that the observations made by the High Court with regard to the mala fides were wholly unjustified and without any basis.

22. In fact, the question of mala fides in a case like the present is not at all relevant. If the complaint which is made is correct and an offence had been committed which will have to be established in a court of law, it is of no consequence that the complainant was a person who was enigmatic or that he was guilty of mala fides. If the ingredients which establish the commission of the offence or mis-conduct exist then, the prosecution cannot fail merely because there was an animus of the complainant or the prosecution against the accused. Allegations of mala fides may be relevant while judging the correctness of the allegations or while examining the evidence. But the mere fact that the complainant is guilty of mala fides, would be no ground for quashing the prosecution. In the instant case, specific averments of facts have been made whereby it was alleged that the respondent had disproportionately large assets. Mala fide intention of the appellant in launching prosecution against the respondent with a view to punish him cannot be a reason for preventing the court of competent jurisdiction from examining the evidence which may be led before it, for coming to the conclusion whether an offence had been committed or not. Allegations of mala fides were also made in P.P.Sharma's case (supra) against the informer. It was held by this



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Court that when an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by itself be the basis for quashing the proceedings.

24. The position of law, in this regard, has been very succinctly stated in the abovesaid case that at the stage of quashing an First Information Report or complaint, the High Court is not justified in embarking upon an enquiry as to the probability, reliability or genuineness of the allegations made therein. This is precisely what has been done by the learned Judge in the present case. The First Information Report having been lodged, the Government of Maharashtra having accorded sanction and thereafter, the charge having been filed, there was absolutely no justification for the High Court to have stopped the normal procedure of the trial being allowed to continue. It cannot be presumed that there was no application of mind when the First Information Report was prepared and the sanction of the Government obtained. The allegations as made in the First Information Report and the order granting sanction, if true, would clearly establish that the respondent was rightly prosecuted and was guilty of criminal mis-conduct. The truthfulness of the allegations and the establishment of the guilt can only take place when the trial proceeds without any interruption.

11. Considered rival submissions and perused the records.

12. Petitioners has filed these Criminal Original Petitions in CrI.O.P.No.15727 of 2015, CrI.O.P.No.15728 of 2015, CrI.O.P.No.15729 of 2015 and CrI.O.P.No.14864 of 2021 for quashing the cases in C.C.No.46 of 2015, C.C.No.45 of 2015, C.C.No.44 of 2015 and C.C.No.65 of 2020 respectively. Admittedly, petitioner is the sole accused in all these cases. Petitioner has filed these quash petition alleging that all the four cases had been engineered at the instigation of Suresh Babu. The reason is that Suresh Babu had purchased undivided share in the property of the petitioner and other shares during the pendency of partition suit. After purchasing undivided share, Suresh Babu effected mutation in the revenue records,



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tried to take possession of the property. Petitioner resisted his attempt by taking steps to cancel the revenue records changed in the name of Suresh Babu and by other legal means. Therefore, Suresh Babu using some women working under him, arranged to give false complaints against petitioner. As stated earlier, this allegation of the petitioner is rejected by the counsel for the second respondent and it is submitted that petitioner was harassing the women on a regular basis and therefore, they gave complaints. F.I.R.'s were registered, investigated and final reports were filed. The civil dispute among petitioner and his relatives, purchase by Suresh Babu, a portion of the property have no connection, whatsoever, with the allegations made in the complaint. In this background, alleged by both the parties, this Court perused the records made available.

13.The perusal of the First Information Reports filed in C.C.No.44 of 2015, C.C.No.45 of 2015, C.C.No.46 of 2015 and C.C.No.65 of 2020, shows that the date of occurrence concerning case in C.C.No.44 of 2015 was on 31.10.2014, the date of occurrence concerning case in C.C.No.45 of 2015 was on 01.11.2014, the date of occurrence in the case concerning in C.C.No.46 of 2015 was on 03.11.2014 and the date of occurrence in the case concerning C.C.No.65 of 2020 was on 23.07.2019. The occurrence concerning the first three cases had taken place between 31.10.2014 and 03.11.2014. The occurrence relates to the last case had taken place on 23.07.2019. It appears that in the first three cases, the complaint was not given directly to the concerned jurisdictional police station. The complaints were sent to Chief Minister's cell on 18.11.2014, forwarded from Chief Minister's cell to Denkanikottai Police station DSP, and then F.I.R.'s were registered on 29.11.2014, 30.11.2014 and 01.12.2014 respectively.

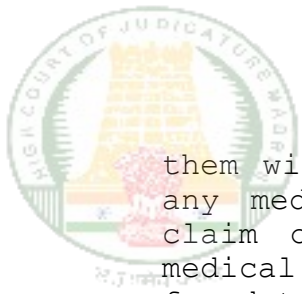
14.It is pertinent here to refer to the complaint allegations in each of these complaint to find out the nature of the offence alleged to have been committed by the petitioner. The complaint in C.C.No.44 of 2015 was given by one Maragadham. It is alleged in the complaint that on 31.10.2014 at about 10 a.m. when she was standing near Denkanikottai post office, petitioner had scolded her in filthy language, and hit her with big stick on her private part. This complaint is dated 31.10.2014. The complaint in C.C.No.45 of 2015 was given by Rani. It is alleged in this complaint that on 01.11.2014 at about 10 a.m., at Denkanikottai bus stand petitioner intimidated her that she should not go to work at Thandarai, criminally intimidated, scolded her in filthy language, stated that she was giving complaint to the police and then he hit her with a long stick. There is no date given in this complaint. The complaint concerned in C.C.No.46 of 2015 was given by Madhamma. It is



alleged in this complaint that on 03.11.2014 at about 10 a.m. near Denkanikottai Sub Registrar's Office, petitioner scolded her as to why she was going to work in Thandarai, scolded her in filthy language as to why she was giving complaint to the police and then hit her with a big stick. There is no date given in this complaint.

15.All these complaints are not given to the jurisdictional police, but sent to Chief Minister's Cell. It was received in Chief Minister's cell on 24.11.2014, 18.11.2014 and 13.11.2014 respectively and forwarded to District Superintendent of Police office and received there on 18.11.2014. The bare look at the complaint shows that the format, text, contents of all these complaints are identical and similar in nature with a minimal change to include the name of the complainant, date, time and place of the occurrence. The address of the addressee is not type written, but hand written in all the complaints. Allegations are almost similar except in the first case. F.I.R. in Crime No.553 of 2014 was registered for the offences under Section 354, 506 (I) I.P.C. read with Section 4 of the Tamil Nadu Prohibition of Women Harassment Act in C.C.No.44 of 2015. F.I.R. in Crime No.558 of 2014 was registered for the offences under Section 506 (I) I.P.C. read with Section 4 of the Tamil Nadu Prohibition of Women Harassment Act. F.I.R. in Crime No.546 of 2014 was registered for the offence under Section 506 (I) I.P.C. read with Section 4 of the Tamil Nadu Prohibition of Women Harassment Act. It is seen from the final report filed in C.C.No.44 of 2015 apart from defacto complainant, one Kaliaamma and Madhamma (defacto complainant in C.C.No.46 of 2015) are shown as eye witnesses to the occurrence. In the final report filed in C.C.No.45 of 2015, apart from the defacto complainant, Rani, the same Kaliaamma and Maragadham (defacto complainant in C.C.No.44 of 2015) had been shown as eye witnesses. In the final report filed in C.C.No.46 of 2015, apart from defacto complainant Madhamma, Kaliaamma and Maragadham (defacto complainant in C.C.No.44 of 2015) had been shown as eye witnesses. Kaliaamma is the common eye witness in all the three cases. The defacto complainants changed their position as eye witnesses, in other cases. It is relevant to note here that in the complaint and statement of witnesses in all the cases, the residential addresses of the defacto complainants and witnesses are not given. It was just said that they are residing in Court road. The door of the house is distinctively missing in their addresses.

16.The defacto complainant Maragadham in C.C.No.44 of 2015, claimed that petitioner had hit her with a long stick on her private part. It is not known why she had not taken any medical treatment. Defacto complainants Rani and Madhamma in C.C.No.45 of 2015 and C.C.No.46 of 2015 claimed that petitioner had hit



them with a big stick. It is not known why they have not taken any medical treatment. Treatment lends an assurance to their claim of physical assault. When they have not undergone any medical treatment, it creates a strong suspicion in the very foundation of their allegations and complaint. The allegations like the one made in these complaints can be made by anyone against anybody. Unless the allegations are supported by material particulars, prosecuting a person on the basis of mere oral allegations would result in miscarriage of justice.

17. In the case before hand, learned counsel for the petitioner produced copy of the entry pass issued by the staff of the Registry that he visited this Court at 2 p.m. On 03.11.2014. This entry pass, prima facie, shows that petitioner visited this Court at 2 p.m. On 03.11.2014 to meet his counsel at chamber number 20. When that be the case, a complaint given in C.C.No.46 of 2015 that on 03.11.2014, petitioner abused the defacto complainant Madhamma, criminally intimidated her, could not have been true. After committing the offence at 10 a.m. on 03.11.2014, it was not possible for the petitioner to come to this Court at 2 p.m. on the same date. In the manner in which, the complaints in C.C.No.44 of 2015, C.C.No.45 of 2015 and C.C.No.46 of 2015 had been generated with identical allegations; the fact that eye witnesses in all these cases almost the same persons and defacto complainant in other cases; that they are interested witnesses; that none of the defacto complainant had taken medical treatment and that the allegations made in the complaints can be made by anyone against anybody. The allegations made in the complaints and statement of witnesses are absurd and inherently impossible. No person with ordinary prudence will believe the allegations. Thus, this Court is of the considered view that there is every possibility that the complaints in C.C.No.44 of 2015, C.C.No.45 of 2015 and C.C.No.46 of 2015 had been given falsely against the petitioner at the instance of Suresh Babu. It is true that allegations of malafide is not the only ground for quashing the complaints/final reports. In the case before hand, for the reasons afore said, this Court finds that the complaints in C.C.No.44 of 2015, C.C.No.45 of 2015 and C.C.No.46 of 2015 had been given falsely against the petitioner only to harass him with criminal prosecutions. A case can be quashed to prevent the abuse process of any Court and to secure the ends of justice. In this view of the matter, this Court finds that the cases in C.C.No.44 of 2015, C.C.No.45 of 2015 and C.C.No.46 of 2015 are liable to be quashed and accordingly quashed.

18. The case of prosecution in C.C.No.65 of 2020 is that on 23.07.2019 at about 15-hours, petitioner had scolded witness Kaliaamma in a filthy language, hit her on her back with his hand, criminally intimidated her, pulled her hair and saree due



to his previous enmity with defacto complainant Suresh Babu. Therefore, petitioner is said to have been committed the offences punishable under Sections 294 (b), 323, 506 (i) I.P.C. and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002.

19. In so far as C.C.No.65 of 2020 is concerned, this Court finds that the injured Kaliamma had taken medical treatment. The A.R copy shows that she informed doctor that she was assaulted by an unknown person and hit by hand at about 3 p.m. on 23.07.2019. On examination, the doctor found that she complained pain at head, back and chest and the doctor opined that this injury is simple in nature. It is specifically alleged that on 23.07.2019 at 3 p.m. Kaliamma was attacked by petitioner, scolded in filthy language. However, in this case, complaint was not given by the victim, but the complaint was given by Suresh Babu, nemesis of the petitioner. The eye witnesses to the occurrence namely Rama Reddy, Pandian and Venkatachalapathy had given statements confirming to the statement of victim Kaliamma. Their statement is corroborated by the medical evidence also. Therefore, this Court is of the considered view that there are materials to frame charges against the petitioner for a trial.

20. In this view of the matter, this Court finds that the proceedings in C.C.No.65 of 2020 cannot be quashed and Criminal Original Petition in Crl.O.P.No.14864 of 2021 is dismissed.

21. In the result, proceedings against the petitioner in C.C.No.46 of 2015, C.C.No.45 of 2015 and C.C.No.44 of 2015 are quashed and Criminal Original Petition in Crl.O.P.No.15727 of 2015, Crl.O.P.No.15728 of 2015 and Crl.O.P.No.15729 of 2015 are allowed. Proceedings in C.C.No.65 of 2020 cannot be quashed and Criminal Original Petition in Crl.O.P.No.14864 of 2021 is dismissed. Consequently, connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar(CS VI)

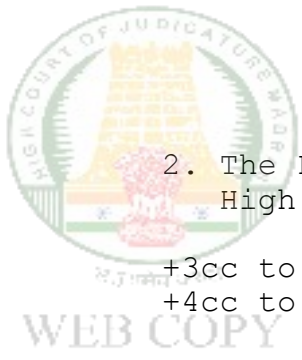
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Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Denkanikottai.



2. The Public Prosecutor
High Court, Madras.

+3cc to M/s.A.Ashwin Kumar, Advocate, S.R.No.24337,24338

+4cc to Mr.R.Jayaprakash, Advocate,

S.R.No.24400,24403,24402,24401

Crl.O.P.Nos.15727, 15728, 15729 of 2015,
Crl.O.P.No.14864 of 2021
Crl.M.P.No.8086 & 8087 of 2020 and
M.P.No.1 of 2015

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