



CRL.O.P.No.721 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 29.09.2022

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.O.P.No.721 of 2021

and

CRL.M.P.No.418 of 2021

1. S.J.Mohandass
2. P.Jayakumari
3. M.Sheeba

... Petitioner / Accused

Vs.

1. The State rep. by
Inspector of Police,
Thudialur Police Station,
Coimbatore.
(Crime No.1423 of 2020)

... 1st Respondent / Complainant

2. Sathya
Assistant Town Planning Officer,
West Zone,
Coimbatore Corporation,
Coimbatore.

... 2nd Respondent / Defacto Complainant

Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the entire records relating to the FIR in Crime No.1423 of 2020 on the file of the Inspector of Police, Thudialur Police Station, Coimbatore and quash the same.



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For Petitioner : Mr.L.Mouli

For R1 : Mr.A.Damodaran
Additional Public Prosecutor

For R2 : Mr.K.Magesh

ORDER

This Criminal Original Petition has been preferred to call for the records relating to the FIR in Crime No.1423 of 2020 on the file of the Inspector of Police, Thudialur Police Station, Coimbatore and quash the same as illegal.

2. The case of the prosecution is that the defacto complainant is the Assistant Town Planning Officer, West Zone, Coimbatore Corporation. The allegation of the 2nd respondent / defacto complainant is that, on the order of the Corporation Commissioner dated 19.05.2020, the 2nd respondent went to the place of the occurrence on 23.05.2020 to remove the unused Cars parked in the reserved site in Plot No.18 in S.F.No.204/2 and 205/2 in Bharathi Nagar, Thirumurugan Nagar, Coimbatore. The accused prevented the defacto complainant from performing his duties as Government Servant and sent a false complaint against him to the



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Commissioner. Therefore, a case has been registered under Section 353

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3. Heard both sides and perused the materials available on record.

4. On the face of it, the complaint does not disclose any case against the petitioners for the offence under Section 353 IPC.

5. On perusal of the complaint, it is seen that the complaint does not have any averments as to the Criminal force used by the petitioners to prevent the defacto complainant from executing his duties in his capacity as a public servant. It is known from the complaint whether the alleged trouble caused by the petitioners was of such a magnitude that he could not perform his duty.

6. Being a public servant, when he had gone to the site to perform his public duty and he is prevented by any public, he would have immediately reported the same to his higher authorities and sought police protection to perform his duty. The defacto complainant has not stated



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that he had taken any such action. Though the FIR is not an encyclopedia, it should contain some fundamental facts relating to the offence committed by the accused. The allegation in the complaint is very bald and it does not disclose any serious offence committed by the petitioner so as to prevent the defacto complainant from executing his public duty on the alleged date.

7. In this regard, it is relevant to extract the Provision of Section 353 IPC as under :

“353. Assault or criminal force to deter public servant from discharge of his duty - Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

8. The material produced before me does not contain any prima



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facie facts or grounds to charge the petitioner for the offence under Section 353 IPC and it is a fit case to exercise the powers under Section 482 of Cr.P.C and quash the complaint.

9. Accordingly, this Criminal Original Petition is allowed and the the FIR in Crime No.1423 of 2020 on the file of the Inspector of Police, Thudialur Police Station, Coimbatore, is quashed. No costs. Consequently, connected miscellaneous petition is closed.

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raja

Index : yes/no

Internet : yes/no

To

1. The Inspector of Police,
Thudialur Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA. J,

raja

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