



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.11491 of 2018  
and CrI.M.P.No.5977 of 2018

M.Ganesh

...Petitioner

Versus

S.Rajaraman

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the complaint in S.T.C.No.454 of 2017 pending on the file of Judicial Magistrate, Tirukoyilur against the petitioner.

For Petitioner : Mr.K.Srinivasa Murthy  
SPCGSC

For Respondent : Mr.S.Sairaman

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the complaint in S.T.C.No.454 of 2017 pending on the file of Judicial Magistrate, Tirukoyilur against the petitioner for the offence under Sections 294(b), 506(i) and 500 of IPC.

2. The crux of the allegations is that the de facto complainant was working as a writer in Head Post Office and he has also worked at some other places. Further, it is submitted that the de facto complainant belongs to the Scheduled Caste and he was also acting as a President of one of the Postal Union. While being so, an FIR has been lodged by one Manivannan, Hindu against him and later, it was closed as 'mistake of fact'. Thereafter, the accused, due to previous enmity, has filed a protest petition before the learned Magistrate. Besides, spreading defamatory statements against the de facto complainant, he has also circulated bit notices, damaging the



reputation of the de facto complainant. On 12.12.2017, upon hearing the news that the accused circulated bit notices, the defacto complainant questioned him. The accused abused the defacto complainant in filthy language and also made a threat to his life. In this regard, the defacto complainant has also lodged a complaint before the Police but no action has been taken. Hence, a private complaint has been filed which has been taken on file for the offence under Sections 294(b), 506(i) and 500 of IPC.

3. The learned counsel for the petitioner mainly contended that this complaint is nothing but a motivated one. It is only due to the previous enmity between the defacto complainant and the petitioner during the departmental action which was taken against the defacto complainant by the petitioner with regard to the misappropriation of funds by the defacto complainant, wherein departmental enquiry was conducted against the defacto complainant and he was given a punishment of 'compulsory retirement' by the Department. The delinquent in the above enquiry was found to have made misappropriation of amounts deposited by one of the depositors. Thereafter, as per the directions of the Superintendent of Post Office, the present petitioner who was holding the Post as 'Inspector' at the relevant point of time, was directed to give a police complaint by letter dated 12.11.2014. In pursuant of the same, he has lodged a criminal complaint and later, it was closed as 'mistake of fact'. Thereafter, again the Department of Post had directed the Inspector of Post to file a protest petition for objection. In pursuant to such direction, he has filed the protest petition before the Learned Magistrate. Based on such filing of protest petition, the learned Magistrate took cognizance of the criminal case against the defacto complainant in C.C.No.123 of 2015 for the various offences. Aggrieved over the same, the present petitioner has filed a protest petition and a complaint for criminal prosecution for the alleged misappropriation of funds. The present complaint has been filed at a later point of time, the same is nothing but a motivated one and abuse of process of law. Hence, sought to quash the proceedings.

4. The learned counsel for the defacto complainant submitted that the departmental enquiry was over in the year 2015 itself whereas the alleged occurrence took place in the year 2017. There is no connection between the departmental proceedings and this occurrence. The complaint itself indicates that there were bit notices circulated by the petitioner herein which tarnished the image of the defacto complainant in the eye of the public.



He further submitted that the Trial Court took cognizance and the matter cannot be quashed at this stage.

5. This Court has perused the entire materials available on record. The fact that the defacto complainant was proceeded for departmental action is not in dispute. The undisputed documents placed on record shows that he was proceeded for misappropriation of funds of the Post Office and enquiry was conducted by the Department of Post and punishment for compulsory retirement was imposed. Thereafter, it appears that the Superintendent of Post Office directed the officer i.e incharge of the Post office to lodge a complaint against the defacto complainant for the alleged fraud and misappropriation of funds committed by him. The communication dated 12.11.2014 addressed by the Superintendent of Post, Viruthachalam to Inspector of Post, Mr.Ganesh indicates that there was a direction to give a criminal complaint. In pursuant to the same, the complaint has been lodged against the defacto complainant and the same was closed as 'mistake of fact'.

6. Since the amount has not been settled by the defacto complainant to the affected party, the Department of Post once again directed the Inspector of Post to file a protest petition for dropping the case. Pursuant to such directions, protest petition was filed by the present petitioner before the learned Judicial Magistrate, Tirukoyilur. Based on the above protest petition, the learned Magistrate took cognizance for the various criminal offences against the defacto complainant and the matter went for trial.

7. It is the contention of the learned counsel for the respondent that the above criminal case ended in acquittal on 06.09.2021. The undisputed documents placed before this Court clearly established the fact that the criminal prosecution was launched at the direction of the higher officials by the petitioner herein and the defacto complainant had to face the trial for the offence of misappropriation of funds and fraud which is said to have been committed by him. These facts clearly shows the motive between the parties and now, the criminal complaint has been launched as if the present petitioner has defamed the defacto complainant, who was accused at the instance of the present petitioner on an earlier occasion. The entire complaint when read together with the other materials available on record leads to the inference that the present complaint is nothing but a result of motive between the parties.



8. This Court has perused the materials available on record. When the very allegation in the complaint indicates that the allegations were pressed into service by the defacto complainant only in order to take vengeance, such complaint cannot be retained by the Courts, forcing the parties to undergo the ordeal of trial. The very allegations at paragraph nos.1 and 2 of the complaint itself indicates that the defacto complainant has developed a serious motive against the present petitioner. Therefore, the allegation as if the bit notices were served on 12.02.2017 is highly improbable and that too, a person holding higher post circulating the bit notices in the public place is highly improbable and unbelievable. Though, this Court cannot go into the veracity and evidentiary value of the statements, on the very face value of the allegations, it appears to be improbable and motivated only in order to wreck vengeance against the petitioner. This Court can straight away throw over such false complaints and prevent the complainant to harass the persons who acted in the official capacity to take action against the person who misappropriated the funds of the public in a public institution. In such view of the matter, it is a fit case where the power under Section 482 of Cr.P.C shall be exercised by this Court. Accordingly, the same is quashed. Hence, this Criminal original Petition is allowed. Consequently connected miscellaneous petition is closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

msv

To

The Judicial Magistrate,  
Tirukoyilur.

+lcc to Mr.S.Sairaman, Advocate Sr.2396

+lcc to Mr.K.Srinivasamurthy, Advcate Sr.3159

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