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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.4922 OF 2020

AND

CRL.M.P.NO.2829 OF 2020

1.Jai @ S.Jayachandran,
S/o.N.Subramani

2.Elango.P,
S/o.Perumal

...Petitioners

Vs.

1. The State represented by its
Inspector of Police,
Gingee Police Station,
Villupuram District.
(Crime No.76 /2020)

2. Mr.Krishnan
S/o.Natesan

...Respondents

Prayer:

Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.76 of 2020 on the file of the Gingee Police Station, Villupuram District, and quash the same.

For Petitioners: Mr.A.R.L.Sundaresan
Senior Counsel
for M.Arunachalam

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to the F.I.R in Crime No.76 of 2020 on the file of the Gingee Police Station, Villupuram District and quash the same.



2.The case of the prosecution is that the 2nd respondent herein lodged a complaint alleging that one Lakshmi Devi induced himself and other persons and taken loan from L & T Finance Ltd. in his name and other persons' name. However, he was not given the entire loan amount and on 29.01.2020 at about 6.00 p.m. the accused persons came to the 2nd respondent's house for collection of dues of the said loan amount and abused the 2nd respondent in foul language mentioning his caste name and threatened him with dire consequences.

3.The petitioners are working as collection officers in L & T Finance Ltd and the 2nd respondent's wife borrowed loan from L & T Finance Ltd., wherein the defacto complainant / the 2nd respondent is the co-borrower for the said loan. On 29.01.2020 when the petitioners had gone to collect the dues of the loan amount, the 2nd respondent made payment and receipt to the payment is also given to him. Thereafter, he approached the advocate and lodged a complaint.

4.On a perusal of the records, it reveal that the 1st petitioner belong to scheduled caste community and the 2nd petitioner is the subordinate to the 1st petitioner. On a perusal of the impugned F.I.R. it revealed that the petitioners are arrayed as A1 and A2 and a case has been registered in crime No.76 of 2020 for the offence u/s.147, 506(1) IPC r/w.3(1)(r) and (s) SC/ST (Prevention of Atrocities) Amendment Act, 2015. Since the 1st petitioner belong to the scheduled caste community, no offence is made out under SC/ST Act.

5.That apart, to attract the said offence, the alleged occurrence should have taken place in public. Even according to the 2nd respondent, the petitioners came to his house and abused him in foul language by using his caste name. Therefore, even assuming that the petitioners had gone to the house of the 2nd respondent, it should have happened in the house of the 2nd respondent and no such offence u/s.SC/ST is made out as against the petitioners.

6.That apart, the occurrence took place on 29.01.2020 and the complaint against the petitioners were lodged only on 13.02.2022. Therefore, it is only after thought in order to escape from the dues of loan amount, the present complaint has been foisted against the petitioners. Hence the present impugned F.I.R. is nothing but mere abuse of process of law and cannot be sustainable as against the petitioners.

7.In the facts and circumstances of the case, the proceedings in F.I.R. in Crime No.76 of 2020 on the file of the Gingee Police Station, Villupuram District for the offences



under Section u/s.147, 506(1) IPC r/w. 3(1)(r) and (s) SC/ST (Prevention of Atrocities) Amendment Act, 2015 is quashed and accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. Inspector of Police,
Gingee Police Station,
Villupuram District.
2. The Public Prosecutor,
High Court of Madras
Chennai 600 104.

+1cc to M.Arunachalam, Advocate, S.R.No.33438

Cr1.O.P.No.4922 of 2020
and Cr1.M.P.No.2829 of 2020

RSV(CO)
PM/20/06/2022