



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.O.P.Nos.5627 and 15224 of 2019
and
Cr1.M.P.Nos.3195 and 7466 of 2019

Cr1.O.P.No.5627 of 2019

1.N.S.Madhanagopal
2.Suseela

... Petitioners/Accused 1 & 2

Vs.

K.Lalitha,
D/o.Late K.Kaleeswaran,
Treasurer,
Sadagopan Enclave Residents Association,
Plot No.1A, Kannappan Street,
Chromepet Road,
Nanmangalam,
Chennai - 600 117.

... Respondent/Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records and quash the private complaint proceedings pending against the Petitioners in STC No.566 of 2018 on the file of the learned Judicial Magistrate, Alandur.

For Petitioners : Mr.C.R.Malarvannan

For Respondent : Mrs.K.Bhuvaneswari

Cr1.O.P.No.15524 of 2019

R.Sarala

... Petitioner/Accused 3

Vs.

K.Lalitha,
D/o.Late K.Kaleeswaran,
Treasurer,
Sadagopan Enclave Residents Association,
Plot No.1A, Kannappan Street,
Chromepet Road,
Nanmangalam,
Chennai - 600 117.

...Respondent/Complainant



PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records and quash the private complaint proceedings pending against the Petitioners in STC No.566 of 2018 on the file of the learned Judicial Magistrate, Alandur.

For Petitioners : Mr.J.R.K.Bhavanantham

For Respondent : Mrs.K.Bhuvaneswari

COMMON ORDER

These Criminal Original Petitions have been filed to call for the records and quash the proceedings pending against the Petitioners in S.T.C. No.566 of 2018 on the file of the learned Judicial Magistrate, Alandur.

2.Mr.J.R.K.Bavanantham, learned Counsel appearing for the Third Accused/Petitioner in Crl.O.P.No.15224 of 2019 submitted that there had been dispute between the Respondent/De-facto Complainant and the Petitioners herein regarding letting out sewage water. The Respondent/De-facto Complainant is a practising Lawyer. The Petitioners disputes the allegations made in the private complaint. Further, the learned Counsel for the Petitioners submits that the Respondent/De-facto Complainant had preferred private complaint against five persons. A1 and A2 in the private complaint are the serving Police officials. A3 - N.S.Madhanagopal who has a flat in the Sadagopan Enclave, Kannappan Street, Chromepet Road, Nanmangalam, Chennai - 600 117.

3.Learned Counsel appearing for the Third Accused further submits that the Third Accused is an employee of Accountant General Office, she is not residing in the place and the learned Counsel invited the attention of this Court to paragraph No.6 of the complaint which is extracted hereunder:

"6.The Petitioner further submits that meanwhile the resident of Plot No.7F adjacent to the septic tank has tried to level and built some construction work in the STP area and the necessary materials were supplied and kept in the common STP area. It was opposed by all the residents but the said resident has argued that he is the man aggrieved and he is having the land over there as per his legal documents. The current office bearers were replied that as per the construction agreement of all the residents, no one shall not change the elevation, outer color scheme of the building, shall not alter or permit to be altered



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the flat to be constructed. But the said resident refused to remove the materials even after the 100 police advised. The said resident has complained to the Police Official (Mr.Elango) about the waste water flow and subsequently the said police official advised the office bearers for sending the waste water by laying the pvc pipes. On the next day (16.04.2018) at 4.30 p.m. laying the pvc pipes work had been carried out and the said resident has enquired about it and subsequently, one of the land owner Mr.Madanagopal has thrown unparliamentary workds on the workers and they had informed Miss.Lalitha, Treasurer and she has rushed to the spot and the said land owner has again used the unparliamentary words on her and ready to beat her. The security and the workers were protected her and left with no other option she has informed the 100 police and to them, Mr.Madanagopal has admitted the unparliamentary usage and the confirmation of abuse was leaded to the loading of police complaint against Mr.Madanagopal, His wife Suseela, His cousin sister Sarala resided outside the Sadagopan Enclave, Mr.Partha Das, His wife Lopamudra and Mr.Venkatesh on 17.04.2018."

4.From the above, the averments regarding the role played by Sarala/Accused No.3 had not been stated in the complaint. While so, the complaint is not at all maintainable against A3-Sarala. Therefore, the same has to be quashed.

5.Learned Counsel for the Petitioners in Crl.O.P.No.5627 of 2019 submits that the Petitioners are the First and Second Accused, who are the husband and wife respectively. He further submits that the dispute is with regard to letting out water but in the complaint no words had been mentioned attracting Section 294B of IPC. Therefore, the private complaint is not maintainable.

6.In support of his contention the learned Counsel for the Petitioners relied on a ruling reported in MANU/TN/0968/1994 [V.Dhasiah and others -vs- State]. The said ruling cited by the learned Counsel for the Petitioner cannot be accepted as it is not applicable to the facts of this case and hence, it is rejected.

7.Learned Counsel appearing for the Respondent/De-facto Complainant would submit that what had been argued by the Petitioners have to be considered during the trial. The



arguments of the learned Counsel for the Third Accused/Sarala that the Third Accused was not present in the place of occurrence is disputed by the learned Counsel for the Respondent/De-facto Complainant stating that there is a CCTV footage which would disclose the presence of Sarala/A3 in the place of occurrence at the time of occurrence. She further submits that she is ready to mark the same during trial before the trial Court. She would further submit that abusive words are uttered but, being a women Lawyer, she did not want to express the words before the learned Judicial Magistrate. The learned Judicial Magistrate, Alandur, had on recording the sworn statement of the Respondent/De-facto Complainant and witnesses who were produced by the complainant, who were the witnesses to the occurrence and at the time of occurrence, were also recorded by the learned Judicial Magistrate and as prima facie case being made out, the learned Judicial Magistrate had taken the complaint on his file as STC No.566 of 2018. On receipt of the summons, the Accused had approached this Court by filing this Criminal Original Petitions and immediately, the case was stayed. Therefore, the trial could not be proceeded. What had been argued by the learned Counsel for the Petitioners in both the Criminal Original Petitions are the subject matter of evidence before the trial Court and therefore, this Court shall not quash the proceedings.

8. In the light of the above, the arguments of the learned Counsel for the Respondent is found reasonable and acceptable. Therefore, the arguments of the learned Counsel for the Petitioners are rejected.

In the result, both the Criminal Original Petitions are dismissed with a direction to the learned Judicial Magistrate, Alandur to proceed with the trial. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

SRM

To

1. The Judicial Magistrate,
Alandur.



2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.R.K.Bhavanantham, Advocate SR.No.22278

+1cc to Mr.V.Raja Mohan, Advocate SR.No.22059

Crl.O.P.Nos.5627 and 15224 of 2019

MT (CO)
GMY (26/04/2022)