

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.5887 of 2019

and

Crl.M.P.No.3287 of 2019

1.Rajkumar
2.P.Mohan
3.P.K.Rajvelu
4.Sengottian
5.Selvaraj @ Veppadai Selvaraj ... Petitioners/Accused

Vs.

1.The State, rep.by
The Inspector of Police,
Pallipalayam Police Station,
Komarapalayam Taluk,
Namakkal District - 638 008. ...1st Respondent/Complainant
2.Dhanasekaran ...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under section 482 of CR.P.C., to call for the records and to quash the First Information Report in Crime No.356 of 2018 on the file of the first respondent police.

For Petitioners : Mr. D. Chandrasekar

For Respondent : Mr. N.S. Suganthan, for R1
Government Advocate (Crl.Side)
No Appearance for R2

O R D E R

This petition is filed to quash the FIR dated 29.05.2018 in Crime No.356 of 2018 registered by Pallipalayam Police Station at Namakkal District.

2. The complaint from one Dhanasekaran S/o Muthusamy, alleging that he is running weekly shandy at Veppadai for nearly 30 years and collecting rent. While so, the petitioners and its associates, to mislead the public and to create enmity between two villagers had distributed pamphlets,

stating that from 03.6.2018, the Sunday weekly shandy is shifted to Chinnakadu and will be functioning from 03.06.2018.

2(i). Based on this complaint, FIR has been registered and taken up for investigation. Contending that the pamphlet was circulated by the petitioners in the interest of public since the existing place where the weekly shandy was running in 60 cents of land was at inter junction Kumarapalayam - Tiruchengode and Erode to salem highways and causing hindrance to the general public. Therefore, the villagers of Patharai gave a representation to the District Collector and pursuant to that they intended to start the private shandy at Chinnakadu and the same was informed to the general public through pamphlet. However, from the proceeding of the Block Development Officer, Pallipalayam dated 29.05.2018, it appears that the fifth petitioner herein was informed that they cannot run the private shandy without prior permission of the Government and therefore, they should not start shandy in a place not permitted.

3. In the quash petition, it is submitted that the complaint does not constitute any offence which attracts Section 147 and 505(i) (b) of IPC.

4. Learned Government Advocate (Crl.Side) states that the investigating officer in this case has completed the investigation and has filed final report on 21.08.2018 which was taken on file by the Judicial Magistrate, Kumarapalayam in C.C.No.403 of 2020 and in view of the stay granted by this Court, no further proceedings could be initiated.

5. Learned counsel for the petitioner would submit that the stay of further proceeding in this case was granted on 05.03.2019 and inspite of that the final report has been pursued by the respondent police.

6. Learned Government Advocate (Crl.Side) states that the final report was filed on 21.08.2018 much before the grant of stay and presented before the trial Court. Many such similar incidents are brought to the notice of this Court and in some case, Court has taken serious view.

7. As far as this case is concerned, taking note of the fact that the trial Court has not proceeded further on the final report, without advertng to the merits canvassed before this Court in the petition to quash FIR, this Court dispose of the petition with liberty to the petitioners herein to canvass the case before the trial Court and seek for discharge.

8. With this observation, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed. The Judicial Magistrate, Kumarapalayam,

shall dispose of the C.C.No.403 of 2020 within six months in accordance with law, from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Judicial Magistrate, Kumarapalayam.

2.The Inspector of Police,
Pallipalayam Police Station,
Komarapalayam Taluk,
Namakkal District - 638 008.

3.The Public Prosecutor,
High Court, Madras.

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SJ(CO)
SB(18/07/2022)