



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.7308 of 2019

and

Crl.M.P.No.4020 of 2019

1.Suresh

2.Mohan

3.Sentamilselvi

... Petitioners/Accused 1 to 3

Vs.

1. The State rep., by
The Inspector of Police,
Sooramangalam Police Station,
Salem District.
(Crime No.261 of 2017)

2. Sutha

... Respondents 1

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceeding in STC No.1370 of 2018 on the file of Judicial Magistrate No.2 Salem and quash the charge sheet.

For Petitioners: Mr. T. Ganesan

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

O R D E R

The petition is filed to quash the criminal complaint pending on the file of Judicial Magistrate No-II, Salem, it is preferred by the accused persons.

2. The second respondent herein has preferred a criminal complaint on 15.04.2017 alleging that on 14.04.2017 at 6.00 pm, the first petitioner came to a shop and picked quarrel with her regarding parking of the car in the adjacent vacant land. In continuation of the said quarrel, on next day, the second and



third accused abused staff of the defacto complainant and assaulted the husband of the defacto complainant causing injury.

2(i). Based on the complaint, FIR No.261 of 2017 dated 20.04.2017 was registered for the alleged offences under Sections 147, 294(b), 323 and 506(i) IPC. Later, on completion of investigation, final report against these petitioners for the alleged offences under Sections 147, 294(b), 323, 506(i) IPC was registered and the same is taken on file by the Judicial Magistrate No.II, Salem in S.T.C.No.1370 of 2018. The petitioners claiming that the averments in the complaint is false and without proper enquiry, the respondent-police has filed a final report to satisfy the defacto complainant. Particularly, it is contended that at the time of alleged occurrence, the first petitioner was in Dubai, he boarded the airport in Bangalore at 1.30 am and the flight departed at 4.30 am and reached Dubai at 7.00 am. Hence, there is no chance of first petitioner committing the alleged offence. The final report consisting of statement of witnesses would clearly show that though the alleged occurrence took place in the public place, there is no eye witness to the alleged occurrence which makes the content of the complaint unbelievable.

3. The FIR indicates that the first occurrence took place on 14.04.2017 at 6.00 pm and it is alleged that the first petitioner and elder son of one Ramalingam, name not known, came to the shop of the defacto complainant and threatened her and forced her to remove the car, parked in the vacant land, owned by her. Now, by way of producing the passport and flight ticket, the first petitioner attempts to take a plea of alibi. The flight ticket produced by the first petitioner is for his travel from Bangalore to Dubai on 15.04.2017. Therefore, the travel ticket is of no support to the case of the first petitioner since entry of his passport reveals that he arrived to India only two days earlier and there is no proof to show that he left India via., Bangalore on 15.04.2017. Except travel ticket, there is no entry in the passport by the emigration office of India or Dubai.

4. In any event, these are the facts to be proved or disproved during the trial. Earlier, when the case was listed before this Court, adjournments were sought and taking note of the frequent adjournments taken by the petitioners herein, this Court observing that after obtaining stay of the proceeding, the petitioners are successfully protracting and delaying the legal process, vacated the interim stay and directed the learned Judicial Magistrate No.II, Salem to dispose of the case within a period of three months.



5. Now, even on merits, this Court finds that there is no ground to quash the case pending and therefore, petition is dismissed. Consequently, connected miscellaneous petition is closed. The order of the Court dated 11.04.2022 directing the learned Judicial Magistrate No.II, Salem to dispose of the case within a period of three months from the date of receipt of copy of this order, stands confirmed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Judicial Magistrate No.2,
Salem.
2. The Inspector of Police,
Sooramangalam Police Station,
Salem District.

+1cc to Mr.T.Ganesan, Advocate, S.R.No.34700

Cr1.O.P.No.7308 of 2019 and
Cr1.M.P.No.4020 of 2019

VG-II (CO)
UMA (23/06/2022)