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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :09.03.2022

Pronounced on :16.03.2022

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.19284 of 2019

and

Crl.M.P.No.9867 and 13369 of 2019

1.Mr.K.Bharathi
Advocate,
S/o S.Kumarasamy
Aged about 36 years,
No.99, G3, Bhagyalakahsmi Apartment,
Nainiammal Street, Krishnapuram,
Ambattur, Chennai 600 053(A1)

2.Mr.M.Shankar,
Advocate,
S/o R.Mohan
Aged about 28 years,
No.2, Bajanai Koil Street,
Kalyanapuram,
Ambattur, Chennai 600 053(A2)

3.Ms.V.Seetha,
D/o Mr.Venu,
Aged about 24 years,
No.2/93, MGR Nagar,
Janappa Chathiram,
Chennai (A3)

.. Petitioners

/versus/

1.State rep.by
The Inspector of Police,
B-4, High Court Police Station,
Chennai.

2.Registrar (Administration),
High Court of Madras,
Chennai 600 104.

.. Respondents



Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code to call for the records relating to C.C.No.3900/2017 in Crime No.13/2017 on the file of the VII Metropolitan Magistrate Court, George Town, Chennai 600 001 and quash the same.

For Petitioners:Mr.V.Karthick
Senior Counsel for
Mr.S.Vijay

For Respondents:Mr.S.Santhosh, GA for R1
Mr.C.T.Mohan for R2

O R D E R

This Criminal Original Petition has been filed praying to call for the records relating to C.C.No.3900/2017 in Crime No.13/2017 on the file of the VII Metropolitan Magistrate Court, George Town, Chennai- 600 001 and quash the same.

2.The learned Senior Counsel appearing for the petitioner prefacing his argument stating that it is an unfortunate case, where the victim girl has been transposed as an accused, prays for quash of final report taken on file as C.C.No.3900/2017 by the VII Metropolitan Magistrate, George Town, Chennai.

3.The final report is the outcome of investigation on the complaint given by the Registrar (Administration) of the Madras High Court reporting about the physical assault on an Advocate by name Raghavan by group of Advocates on 27/04/2017 near Court Hall No.10, First Floor of the High Court Old Building.

4.The gist of the complaint as found in the First Information Report is as follows:-

" On 27/04/2017, about 14.45 hrs three male Advocates , along with a woman, physically assaulted one Mr.Raghavan, Advocate near Court Hall No.10 in the first floor of the High Court Old Building. This incident was witnessed by Ct.S.Riyaz Mideen and Head Constable Md.A.Ali of the C.I.S.F and the occurrence has been captured by the C.C.T.V. Camera. The Senior Commandant,



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C.I.S.F. ISD Madras High Court, Chennai has sent a report dated 29.04.2017 along with a compact disc containing the C.C.T.V. Footage. The C.C.T.V. Footage was played and the enquiry conducted reveals that the assailants were (1)Mr.K.Bharathi, and advocate (Enrolment No.1711/03) of Democaratic Advocates Association, S/o S.Kumaraswamy residing at No.99, G3, Bhayalakshmi Apartment, Nainiammal Street, Krishnapurm, Ambaturr, Chennai-53 (2) Mr.M.Shankar, Advocate(Enrolment No.2525 of 2013), S/o R.Mohan, No.2, Bajanaï Koil Street, Kaiyanapuram, Ambattur, Chennai-53 and (3)Ms.V.Seetha, a 2nd year Law student pursuing law in Andhra Pradesh, residing at No.2/93 MGR Nagar, Janappa Chathiram, Chennai. We were not able to identify the fourth male who had assaulted Mr.Raghavan, Advocate. Since the aforesaid four persons have committed cognizable offences within the high security zone of the High Court, a case may be registered against them and action be taken in accordance with law. The delay in lodging the complaint had occasioned on account of the steps taken for identifying the persons from the video footage and also in getting approval from the Hon'ble Security Committee of the Madras High Court."

5.Based on this complaint, the respondent police has conducted investigation and filed final report arraying these petitioners as Accused 1 to 3. The final report indicates the CCTV footage captured the occurrence of the crime and the statement of witnesses, who are mostly CISF personnels on duty in the High Court campus, being a security zone disclose sufficient material to prosecute them for offences under Sections 341, 294 (b) , 325 and 506 (i) of IPC.

6.But then, the petitioners claim that the alleged incident is the follow up consequence of the earlier incident, which happened inside the Court Hall No.10, when an Advocate (later his name came to be know as A.R.Raghavan) came near the third petitioner herein, [a law student joined as Intern in the second accused's office], promised her to keep happy, get jewels for her and give whatever she want and as quit pro quo sought for sexual favour from her. When her senior(3rd petitioner) came to



the Court Hall, the third petitioner narrated to her Senior about the sexual remarks made by the said Advocate. Her Senior asked the said Advocate (Raghavan) to come outside the Court Hall and he questioned Raghavan about his misbehaviour with the third petitioner. The said Raghavan slapped the second petitioner. The Advocates standing nearby rescued her Senior, the second petitioner.

7. She gave a complaint to the Registrar (Administration), High Court of Madras, on the same day and requested to take action against the said Advocate A.R. Raghavan, who sexually harassed her and slapped her Senior. The sexual harassment complaint was referred to the Gender Sensitization and Internal Committee in High Court. In the enquiry before GSICC, the third petitioner participated. The Committee gave its report to the Chief Justice of Madras High Court, based on the report the Chief Justice passed the following order:-

"Today, the 14th day of September 2015, when the Court assembled as usual at 10.30 a.m., we were confronted with the spectacle of lawyers in their robes and other persons/children accompanying them, holding placards inside the Court hall wanted Tamil as a Court language. There was perceived possibility of such a situation on account of confidential information received in the office of the Chief Justice and hence, the local police authorities had been duly informed to prevent such a situation. However, a number of lawyers and other peoples, as referred to aforesaid, had already occupied the first Court, a few minutes before the Court was to begin its sitting. Some were lawyers in robes, but the police could not even prevent the entry of people not in robes and children. One of the lawyers, Mr. V. Murugan, spoke in English and Tamil, and was threatening to continue squatting in the Court till their demand for Tamil as Official language of the High Court was met. It was explained to him by the Court that their grievance in this regard cannot be redressed here. Even such counselling had no effect and they continued to hold the placards.

2. This is not the first time that the functioning of the High Court or the First Bench has sought to be distracted, for one



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reason or the other-whether connected with this Court or otherwise. There is also an unhealthy so-called practice of lawyers raising slogans and marching in the corridors. The earlier incidents witnessed by this Court was over the issue of detention of fishermen in Srilanka and post recommendation of names for elevation to High Court, lawyers had even entered the Court and indulged in sloganeering.

3.This problem has far more aggravated in the Madurai Bench of this Court, where there have been such periodic incidents of advocates taking out processions, entering court and disrupting proceedings, using hand-held microphones and even occupying the Chamber of the Puisne Judges at the Madurai Bench.

4.It is time that such unhealthy practice are curtailed and there cannot be unauthorised ingress and egress to the Court. The Judges must feel secure while administering justice and thus, proper security has to be arranged to prevent such incidents, which not only disrupt the functioning of the Court, but can result in security breaches when Courts are concerned with sensitive matters, especially a Court like the present High Court and its Bench.

5.The Police is often reluctant to take any action despite there being past incidents and assurances being held out that corrective measures would be taken. Such a situation has possibly arisen from the past history of confrontation between the lawyers and the police. The Courts and the Judges cannot be left unattended and unprotected.

6.We are informed that the Government of India, Ministry of Home Affairs, as far back as 31.05.2007/04.06.2007 had issued guidelines for security of High Courts and District and Subordinate Courts in the country to Chief Secretaries and Directors General/Inspectors General of Police of all States and UTs. Para (v) of the Guidelines provides that the High Court in the respective States/UTs should be declared as High Security



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Zone. As informed to us, this guideline has not been implemented by the State Government. We cannot wait any more and issue directions to the State Government to forthwith take action and initiate declaration of the High Court as a High Security Zone by the next date.

7. The Security Committee constituted by the Chief Justice of this Court has been seeking to address various security measures. The Minutes of the last meeting held on 07.07.2015 placed before us shows that representatives of different recognized associations were present when various aspects were dealt with. One of the steps is relating to the requirement of CISF cover. The relevant portion of the Minutes is extracted as under:

CISF COVER:

During the course of deliberations, the office bearers of the respective associations as also the police personnel expressed that in view of the continuing police-advocates altercation and the strained relationship between the two, the security cover for the High Court can be handed over to the Central Industrial Security Force (CISF). In this regard, it will be useful to refer to the report of the Assistant Commissioner of Police, High Court Range listing out the details of the various untoward incidents that happened between the police and the Advocates so far enclosed as Annexure-I, the relevant portion is extracted hereinbelow:-

"The Police Personnel in the High Court campus are trying their level best to maintain strict discipline in the High Court Campus. They face a number of problems, while facing advocates and at least on 10 different occasions, for the past three or four years, the Advocates have beaten the Police Personnel and fearing a bigger altercation, these things have not been brought to the notice of the Hon'ble Security Committee. The Advocates forget that the High Court Campus belongs to the Government and they treat it as their own property.

In general many of the Advocates do



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not listen to the requests of the police authorities:

- (1) To show their Identity cards.
- (2) Not to park their vehicles in the main arterial roads.
- (3) Bringing client/accused without entry pass, etc., in their own cars.
- (4) Playing cricket especially during holidays in the High Court car parking area (backside of the Family Court).
- (5) Passing unnecessary/lewd remarks against women police personnel, especially those who would be in their early 20's.
- (6) Giving false complaints against clients, if they do not give the heavy fees demanded.
- (7) Accusing the police for no fault of their whenever they get an opportunity.
- (8) Not to take liquor inside the campus.
- (9) Not to conduct "Katta Panchayat".
- (10) Not to take processions and agitations inside the campus.
- (11) In June, 2015, despite permission granted by the Hon'ble Chief Justice to conduct Yoga Classes for the staff members in which many advocates and police personnel also participated a group of advocates headed by M/s Rajinikanth, Milton, etc., prevented the conduct of yoga classes from the 4th day onwards.
- (12) Some Advocates conducted "Beef Eating" Programme in the campus recently. "Beef Curry" was brought in a big vessel and distributed in use and throw paper plates to the Advocates.
- (13) In front of Dr. Ambedkar statue, packets containing "Chicken, mutton & beef biryani" were distributed and many advocates sat and ate at that place itself.
- (14) Some Advocates, including Notary Public park their vehicles in the High Court campus even during night hours, without caring for the strict circular issued by the Registry".

Several other individual instances have been listed in the report submitted by



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the Assistant Commissioner of Police, High Court Range. The several incidents of police-lawyers altercation that occurred in Madurai Bench is also a grave issue. In this regard, the note prepared by Brother K.K.Sasidharan,J., is enclosed as Annexure II. Further, vide circular No.VI23014/79/2005-VS issued by the Ministry of Home Affairs, Government of India, guidelines have been issued for the security of High Courts and District/Subordinate Courts in the country, whereby the High Court in the respective States/UTs should be declared as High Security Zone, which is enclosed as Annexure III. In view of the same the need to bring the High Court, Principal Seat as well as the Madurai Bench under the Security cover of Central Industrial Security Force (CISF) becomes an immediate necessity. Accordingly, it is resolved that the High Court, Madras as well as the Madurai Bench shall be brought under security cover of CISF.

The Central Government may be addressed through the State Government for providing the above mentioned security cover to the High Court.

8. In view of the prevailing situation in the Court, we would take suo motu proceedings and issue notice to the Chief Secretary, Government of Tamil Nadu and the Principal Secretary, Ministry of Home Affairs, Government of India.

9. Notice is accepted by Mr.A.L.Somayaji, learned Advocate General and Mr.G.Rajagopal, learned Additional Solicitor General.

10. We call upon the concerned authorities to immediately take steps for handing over the security cover for the High Court to CISF or any other similar force. This is necessary for a smooth functioning of the High Court, as continuance of such incidents, as we are witnessing today, are not only destructive and disrespectful towards the Court, but affects the very ability of the Court to dispense justice. It sets a bad example for the other litigants who attend in



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person and dilutes the authority of the Court.

11. List on 18.09.2015.

The advocates and other persons accompanying them have continued to squat throughout the day including the lunch recess till the Court rose."

8. The Learned Senior Counsel pointing the delay in forwarding the complaint, omission to forward the 3rd petitioner compliant of sexual harassment to the police, inspite of recommendation of the GCICC to forward the complaint of the victim girl and the contradictions in the statement of witnesses about the occurrence, also relying upon certain observations made by the GSICC regarding the CCTV footage, contended that the complaint made belatedly, the investigation done perfunctorily and the counter complaint of the victim girl ignored. These omission and commission render in the final report to be quashed following the guidelines laid in Bhajan Lal case [(1992 Supp (1) SCC 335)].

9. Per contra, the learned Additional Public Prosecutor submitted that the Learned Senior Counsel has failed to consider the incident which took place inside the Court Hall No.10 namely the sexual assault alleged by the third petitioner against the Advocate by name Raghavan and the incident, which took place outside the Court hall No.10 namely use of abusive language and brutal assault of Raghavan by these petitioners and others are two distinct occurrence and offences. No doubt said Raghavan caused sexual harassment to the third petitioner and that is the subject matter decided by GSICC and its recommendation are enforced. This will not take away the guilt of these three petitioners to cause ruckus in the security zone, use filthy and abusive language and use their force and might call an advocate waiting inside the court hall for his turn to come out and attack brutally causing fracture. When this was brought to the notice of the Registrar (Administration) by the CISF Personnel, the matter was placed before the Security Committee. On the approval of the Security Committee and on identification of the petitioners from the CCTV footage, the complaint was lodged and the reason for delay was also explained in the complaint itself.

10. Being a security zone, the members of Bar and the general public are expected to keep the campus free from any disturbance of any nature. The violence leached by these petitioners and others in robes against another Advocate in robes



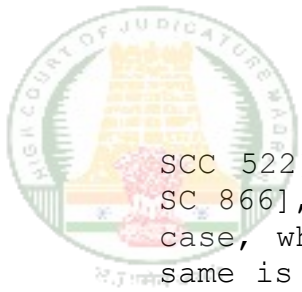
on the corridor of the court hall warranted the Security Committee to forward the complaint for investigation. A cognizable offence committed within the High Court, which is declared as security zone, hence, the complaint was lodged with tell tale evidence. The defence of delay in FIR and the contradiction in witnesses statement are all to be tested in trial and not a matter for quash.

11.Regarding the third petitioner's complaint about the Advocate, Raghavan, the learned counsel for the 2nd respondent Police, the power of the High Court in respect of any sexual harassment of Staff, is to be dealt by GCICC. The said Gender Sensitization and Internal Committee has power and reference was to enquire the alleged sexual harassment alleged to have occurred within the Court Hall No.10. They are competent or empowered to enquire the physical assault of a lawyer in robes by a violent group which occurred outside the court hall. With the help of the CCTV footage, these three petitioners were identified. One is an practising Advocate registered in the Bar Council of Tamilnadu and Puducherry, another is a friend of this Advocate and the third one is the girl, who claims to be an intern studying law in Andhra Pradesh.

12.On perusing of the case records, this Court has no iota of doubt, that the incident happened between the 3rd petitioner and the Advocate Raghavan, inside the Court hall, cannot be taken as an excuse by the petitioners for the incident happened outside the court hall. The CCTV footage provides adequate evidence prima facie sufficient to sustain criminal prosecution against these petitioners. The abusive and filthy language used by these petitioners, while attacking the Advocate, whom according to the petitioner is a sinner and to be given spot punishment only make this Court feel sick about the level of morality, where the members of the Bar has gone.

13.Law does not permit anyone to take law into their own hands and give instant punishment. The third petitioner may be a victim in respect of the alleged sexual conversation made by the Advocate in this case, but that cannot be an excuse to engage his Senior and yet another person to use abusive language inside the Court campus and leach violence.

14.The Hon'ble Supreme Court recently in Musstt Rehana Begum v. State of Assam and another reported in [2022(2) Scale 272], after referring the parameters laid by Hon'ble Supreme Court in State of Haryana v. Bhajan Lal case (cited supra); State of Andhra Pradesh v. Golconda Linga Swamy reported in [2004(6)



SCC 522] and R.P.Kapur v. State of Punjab reported in [AIR 1960 SC 866], had highlighted the portion of the Judgment in R.P.Kapur case, which is apt and relevant for the case in hand. Hence, the same is extracted below:-

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"6.The inherent power of the Court to quash the criminal proceedings:

(i)Where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii)Where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii)Where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

7.In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence, which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not to whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge."

15.For the afore said reason, the petition to quash the complaint deserve to be dismissed as devoid of merit. Hence, this Criminal Original Petition is dismissed. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To:

1.The VII Metropolitan Magistrate Court,
George Town, Chennai 600 001.

2.The Inspector of Police,
B-4, High Court Police Station,
Chennai.

3.Registrar (Administration),
High Court of Madras,
Chennai 600 104.

Copy to: The Section Officer,
Legal Cell Section,
High Court, Madras-104.

+2cc to Mr.c.T.Mohan, Advocate SR.No.17556
+1cc to Mr.K.Bharathi, Advocate SR.No.17560

CrI.O.P.No.19284 of 2019
and

CrI.M.P.Nos.9867 and 13369 of 2019

MT (CO)
CB (07/04/2022)