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CrI.O.P.No.20355 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.O.P.No.20355 of 2022
and
CrI.M.P.Nos.13352 & 13353 of 2022

1.T.Thirunavukkarasu
2.Jeevendiran

... Petitioners

Vs.

P.Sakthivelan

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.39 of 2022 on the file of the Judicial Magistrate, Chengam, quash the same.

For Petitioners : Ms.S.P.Sudalaiyandi

For Respondent : Mr.K.Balu

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.39 of 2022 on the file of the Judicial Magistrate, Chengam for the offences under Sections 200, 294(b), 506(ii), 500 and 507 of IPC.



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2. The learned counsel for the petitioners would submit that initially, the first petitioner lodged a complaint before the Chengam police against the respondent. After enquiry, the Chengam police registered a case in Crime No.599 of 2018 against the respondent for the offences under Section 304(i), 294(b), 323, 324 & 506(i) of IPC. Thereafter, as a counter blast, the respondent gave a complaint before the Chengam police on 15.05.2022 as if the petitioners have trespassed into the house of the respondent and threatened him with dire consequences.

3. The learned counsel for the petitioners would further submit that the complaint given by the respondent was received by the Chengam police and they have issued a CSR No.171 of 2022 to him. Subsequently, after enquiry, they have closed the complaint as mistake of fact. Aggrieved over the same, the respondent filed a private complaint before the learned Judicial Magistrate, Chengam against the petitioners, in which, the second petitioner age is mentioned as 18 years, which is not true and the date of birth of the second petitioner is 13.06.2006 and as per the date of birth, his age is only 16 years and he is studying XII Standard and therefore, the complaint against the minor is not at all maintainable. He would further submit that one Sakthivelan, Pachayappan and Murugan were examined as witnesses before the Trial Court



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with regard to the time of occurrence and for which, one witness has stated the time as 5.00 pm and another witness has stated the time as 4.00 pm. Though there was a contradiction in their statement, the learned Magistrate has taken cognizance in C.C.No.39 of 2022 on the ground that prima facie case has been made out against the accused and issued summon to the accused for their appearance. He would submit that the allegation in the private complaint itself a false one and no such incident had happened as alleged by the respondent on 14.05.2022 at about 5.30 p.m. Hence, it has to be quashed. Therefore, the present petition has been filed.

4. The learned counsel for the respondent would submit that the first petitioner is the Journalist and the respondent gave complaint against the petitioners with regard to the fact that the petitioners have trespassed into the house of the respondent and threatened him with dire consequences. The complaint given by the respondent was received by the Chengam police and issued a CSR No.171 of 2022 to him. Subsequently, without conducting proper enquiry, they have closed the complaint as mistake of fact. Aggrieved over the same, the respondent filed a private complaint before the learned Judicial Magistrate, Chengam. The learned Judicial Magistrate, after examining the witnesses viz., Sakthivelan, Pachayappan and Murugan, has taken the case on



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file in C.C.No.39 of 2022 on the ground that prima facie case has been made out against the accused and issued summon to the accused for their appearance.

As for the contradiction, falsification or truthfulness, the case has to be adjudicated by letting out the evidence. At this stage, it is not proper to quash the proceedings in C.C.No.39 of 2022. Therefore, seeking to dismiss the petition as it has no merit.

5. I have considered the matter in the light of the submissions made by the learned counsel for the petitioners and the learned counsel for the respondent.

6. A perusal of records, reveals that the petitioners are accused in C.C.No.39 of 2022 on the file of the learned Judicial Magistrate, Chengam. From the records, it is seen that according to the respondent, on 14.05.2022 at 5.30 pm, when he was standing opposite to the milk booth, the accused persons had threatened him with dire consequences and also scolded him using filthy languages by defaming him and his family members. Therefore, he gave a complaint before the Chengam police on 15.05.2022. The respondent police received the complaint and issued a CSR No.171 of 2022 and after enquiry, they closed the complaint as mistake of fact. Therefore, the respondent filed a



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private complaint before the learned Judicial Magistrate, Chengam and the learned Magistrate had taken the case on file in C.C.No.39 of 2022 on the ground that prima facie case has been made out against the accused and issued summon to the accused for their appearance.

7. Since the learned Magistrate satisfied with the prima facie, the case has to be adjudicated by letting out the evidence. Therefore, it is inappropriate to quash the proceedings in C.C.No.39 of 2022, before the commencement of the Trial. Therefore, it does not meet the parameters laid down by the Supreme Court in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)*, *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)* & *PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)*. Therefore, I find no merit in this petition

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

16.11.2022

Internet:Yes/No

Index:Yes/No

Speaking/Non speaking order

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V.SIVAGNANAM,J.

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To

1. The learned Judicial Magistrate,
Chengam

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and

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