



Crl.O.P.No.24818 of 2019
and
Crl.M.P.No.13237 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.11.2022

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24818 of 2019

and

Crl.M.P.No.13237 of 2019

1.Ramasamy
2.Ravikumar
3.Raja
4.Chinna Raja

.. Petitioners/Accused 1 to 4

/versus/

1.State rep by
Deputy Superintendent of Police,
Attur, Salem District.
(Crime No.41 of 2017)

.. Respondent/Complainant

2.K.Udhayakumar

.. Respondent/Defacto
Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for records in relation to charge sheet in S.C.No.161 of 2018 on the file of Principal District and Sessions Judge, Salem and quash the same.



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For Petitioners :Mr.P.Ganapathy

For Respondents :Mr.N.S.Suganthan,
Government Advocate (Crl.side)
for R1

Present in person for R2

ORDER

This Criminal Original Petition is filed to quash the criminal case in S.C.No.161 of 2018 on the file of the Learned Principal District and Sessions Judge, Salem.

2. The gist of the complaint:

The petitioners and the defacto complainant were pursuing their degree in Aringar Anna Government Arts College, Vadasennimalai. On 22.02.2017, the defacto complainant along with Kumaresan, Santhoshkumar, Poovarasan and Sugan were standing near the College Principal Room. The petitioners herein came there with bleeding injury and uttered filthy language calling their caste names and threatened them that how dare to attack them. Thereafter, the petitioners left the place. The



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defacto complainant has reported the matter to the police on the same day and First Information Report came to be registered in Crime No. 41 of 2017. One R.Pon Karthick Kumar, Deputy Superintendent of Police, Attur Sub Division, Salem District was authorised to investigate the case and he, on completion of investigation has filed the Final Report for the offences under Sections 294(b), 323, 506(i) of IPC r/w 3(1)(r), 3(1)(s) and 3 (2) (va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (in short “SC/ST (PoA) Act”).

3. Ground for quash:

The learned counsel appearing for the petitioners submitted that the defacto complainant and his associates were the actual assailants, who attacked the petitioners causing bleeding injury for which the complaint in Crime No. 40 of 2017 was registered by the respondent police. To counter blast this complaint, a false allegation against the injured person as if they called the defacto complainant and his associates by their community name and threatened them, has been filed. Pending enquiry, the defacto complainant himself realizing his mistake, has forwarded a letter to the Enquiry Officer that he is not interested in pursuing the complaint.



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Without taking note of his letter, the Investigating Officer has proceeded and filed the Final Report. At the same time, the first respondent police has not taken up the investigation of the complaint given by the petitioners, which was registered in Crime No. 40 of 2017. Having failed to file the Final Report on completion of investigation in their complaint, the learned Judicial Magistrate-II, Attur, Salem has closed the First Information Report recording that the complaint cannot be taken cognizance of offence, in view of limitation. The lopsided investigation, ignoring the letter given by the defacto complainant and omission to investigate the case where the petitioners sustained bleeding injuries goes to show the malafide intention of the Investigating Officer, who had not properly investigated the case and not considered the letter given by the defacto complainant. Hence his competency to investigate the case under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short SC/ST Act) mandated under Rule 7 of SC/ST Act is highly doubtful.

4. This Court, on hearing the submission found that it is a case



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and case in counter. Therefore, called for the records and also summoned the defacto complainant to verify, whether he gave any letter to withdraw his complaint, when the investigation was pending.

5. The defacto complainant is present today and affirmed that while pursuing the education in the College, due to some trivial dispute, there was a physical altercation and the petitioners sustained injury. To avoid action due to ill-advise he gave this complaint and later, realising his mistake and also to maintain cordiality among the college students, he requested the Investigating Officer to drop further action. However, the Investigating Officer had proceeded to file the Final Report. Neither he seeks their arrest nor interested in pursuing the matter any further.

6. Dehors of the above statement of the defacto complainant, this Court finds that the case in counter alone taken up for investigation and final report filed against these petitioners even though, the petitioners were found injured. It is improper on the part of the respondent police to ignore the complaint in Crime No.40 of 2017 and proceed with the complaint where even admittedly, there was only verbal abuse by few



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persons, who had bleeding strains in their face and uttered that how dare you can escape after attacking us.

7. Admittedly, from the records and the complaint, it is clear that the petitioners herein are the persons sustained injuries and they have uttered certain words out of frustration. The Investigating Officer ignoring the real fact and also the letter given by the defacto complainant to withdraw the complaint has filed the Final Report, without proper investigation. This does not reflect the true facts of the case and the event happened on 22.02.2017.

8. In the said circumstances, this Court finds that the learned Judicial Magistrate No.2, Attur, has closed the First Information Report in Crime No.40 of 2017 for not completing the investigation on the point of limitation on 01.08.2021. While so, contrary to the facts, the complaint in Crime No.41 of 2017, final report filed and taken cognizance in S.C.No.161 of 2018, the malafide investigation ignoring the law governing case and case in counter is liable to be quashed. **Accordingly, this Criminal Original Petition is allowed** and S.C.No.161 of 2018 is



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quashed. Consequently, connected Miscellaneous Petition is closed.

25.11.2022

Index:yes/no
Speaking order/non speaking order
ari

To

1.The Deputy Superintendent of Police,
Attur, Salem District.

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN,J.
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