



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P(MD)No.366 of 2020

and

Crl.M.P(MD)Nos.115 and 116 of 2020

P.Nagavel

... Petitioner/Sole Accused

Vs.

1.State through,

The Inspector of Police,
Thondi Police Station,
Ramanathapuram District,
In Crime No.157 of 2018

... 1st Respondent/Complainant

2.Muneeswaran

... 2nd respondent/defacto complainant

PRAYER: Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.33 of 2019 on the file of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District and quash the same.

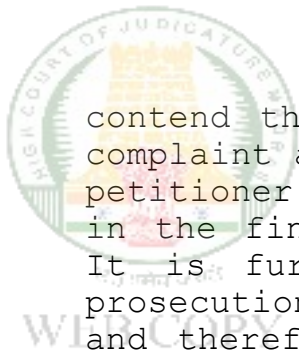
For Petitioner	: Mr.K.Samidurai
For R-1	: Mr.A.Thirvadi Kumar, Additional Public Prosecutor
For R-2	: Mr.S.C.Herold Singh

ORDER

This Criminal Original Petition has been filed to quash the final report filed against the petitioner in Crime No.157 of 2018 on the file of the first respondent for the offence under Sections 294, (b), 427, 506(2) and 379 I.P.C., which has been taken on file in C.C.No.33 of 2019 on the file of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District.

2. The crux of the allegation in the final report is that the petitioner broke open the temple, damaged the Hundial and committed theft of Rs.480/- and also taken away the Rudraksha Garland from the statue. When the same was questioned, he abused the defacto complainant and other witnesses and thereby, final report has been filed against him.

3. The learned counsel appearing for the petitioner would



contend that the petitioner is working as a Teacher. The entire complaint and the final report is due to previous enmity between the petitioner and the defacto complainant and all the witnesses cited in the final report are the relatives of the defacto complainant. It is further submitted that the entire final report and the prosecution is appended with malafide motive and false implication and therefore, seeks to quash the final report filed against the petitioner.

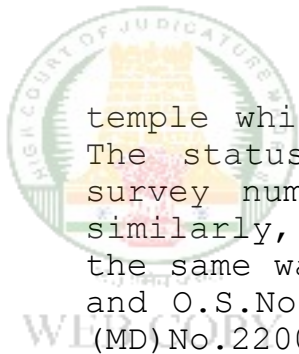
4. Mr.S.C.Herold Singh, learned counsel appearing for the second respondent / defacto complainant would submit that the temple is worshipped for many years and civil suit pending between the parties is not relating to the temple property. He would further submit that the accused broke open the temple, damaged the Hundial and taken away the money and Rudraksha Garland from the statue.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Normally, when the materials collected by the prosecution *prima facie* implicated the accused, the Court would not venture into the probative value of those statements or materials. But, at the same time, when the Court is *prima facie* satisfied that the entire criminal proceedings manifestly attended with malafides and the prosecution itself is initiated for some reasons due to the civil dispute between the parties, the Court will step into prevent the abuse of process of law. In such circumstances, the Court would not hesitate in exercising the power under Section 482 Cr.P.C., to quash the final report, which was manifestly attended with malafides. Though statements have been recorded from the witnesses as if the accused damaged the Hundial and committed theft of Rs.480/- and taken away the Rudraksha Garland, same are highly improbable and all the witnesses are relatives of the defacto complainant.

7. It is further added that civil suit in this regard in O.S.No.140 of 2017 on the file of the Sub-Court, Ramanathapuram, was filed by the petitioner wherein the defacto complainant is the fourth defendant and the second defendant is the brother of the defacto complainant and the suit has been laid for declaration in respect of Survey No.55/2A3B of Thondi, Thiruvadanai Taluk, Ramanathapuram District and the F.I.R in this case came to filed on 20.10.2018 much after the civil suit.

8. It is further added that this Court on earlier occasion, sought a status report from the first respondent. The first respondent has filed a status report narrating the nature of the civil dispute pending between the parties. The status report indicates that on earlier occasion, there was an F.I.R as against the second respondent's father and his group in Crime No.223 of 2017 for the alleged offence under Sections 147, 294(b), 427, 447 and 506 of the Indian Penal Code, 1860 in a dispute over Survey No.52/1 wherein the alleged



temple which was the subject matter of the present F.I.R is there. The status report further reveals that in respect of the above survey number, the petitioner's father is one of the owners and similarly, while the petitioner started construction of his house, the same was objected, as a result, civil suit in O.S.No.140 of 2017 and O.S.No.12 of 2018 are also came to be filed. Similarly, W.P. (MD)No.22002 of 2017 was also filed wherein also, the present petitioner was impleaded. The above writ petition filed by the second respondent's group got dismissed and another suit in O.S.No.63 of 2016 on the file of the District Munsif Court, Thiruvadanai, is also pending in this regard.

9. The above said facts, clearly indicate that there are serious civil disputes with regard to enjoyment of the temple. Only thereafter, the present F.I.R came to be filed on 20.10.2018, which has been culminated into final report. From the above narration, this Court comes to the conclusion that this case is nothing but malicious prosecution with malafide intention and is nothing but abuse of process of law.

10. Accordingly, the Criminal Original Petition is allowed and the final report in C.C.No.33 of 2019 on the file of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District, filed against the petitioner is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Judicial Magistrate, Thiruvadanai,
Ramanathapuram District.
- 2.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District,



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-10109[F] dated 04/03/2022)

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-9926[F] dated
04/03/2022)

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RD(17.03.2022) 4P 6C