



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.941 of 2020

and

Crl.MP(MD)Nos.400 and 401 of 2020

WEB COPY

L.Krishnaprabu : Petitioner/A1

Vs.

1.The State represented through
The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District. : R1/Complainant

2.Mr.Pandidurai : R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records the records pertaining to the impugned charge sheet in CC No.23 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate, Ilayangudi and quash the same as against the petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For 1st Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

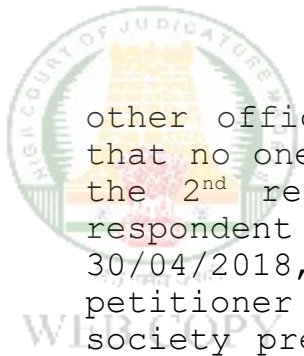
For 2nd Respondent : Mr.D.Sadiq Raja

O R D E R

This petition has been filed seeking quashment of the CC No.23 of 2019 pending on the file of the District Munsif-cum-Judicial Magistrate, Ilayangudi as against the petitioner.

2.The case of the prosecution in brief:-

The 2nd respondent, who is the de-facto complainant herein was serving as Secretary in Munaivendry Primary Agricultural Co-operative Credit Society Limited and at that time, one D.Vetrivel was the Assistant Secretary, R.Thiyagarajan is the Cashier and P.Arulandam is the Attender. On 27/04/2018, the Administrative Committee election was scheduled to be conducted. On 26/04/2018 at about 3.00 pm, the petitioner and his father, who is A2 in this case threatened the de-facto complainant, the 2nd respondent herein and



other office-bearers in front of the co-operative society building that no one should come and cast the vote and criminally intimidated the 2nd respondent. In spite of the above said warning, the 2nd respondent did not cooperate. So also the other office-bearers. On 30/04/2018, when the de-facto complainant was on leave, the petitioner and the 2nd accused alleged to have entered into the society president's room, abused in filthy language and also taken away the day today book, salary lodger, resolution book, cheque book etc. So based upon the complaint given by the 2nd respondent, the case in Crime No.106 of 2018 has been registered for the offences under sections 353, 294(b), 506(ii) and 386 IPC. The final report was filed by the 1st respondent and it was taken on file in CC No.23 of 2019 by the District Munsif-cum-Judicial Magistrate, Ilayangudi.

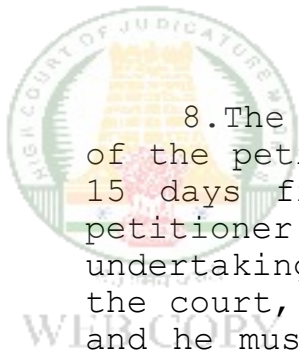
3. Seeking quashment of the final report, this petitioner came to be filed on the sole ground that due to previous enmity only the complaint has been given.

4. Heard both sides. The entire record has been called for and perused.

5. Even though, elaborate argument has been advanced by the learned counsel appearing for the petitioner, because of the dispute with regard to the termination of the 2nd respondent herein from the post, since he has misappropriated the amount of Rs.96,00,000/-, trouble has been made by the 2nd respondent. Only the petitioner passed the suspension order in the capacity of the President of the Society. Later, he unilaterally prepared the voters list for the society election and published the same without getting any approval from the society. So according to him, the collection of voters list and even the conduct of the election is per se illegal. According to him, there is no basis for the criminal prosecution and it is clear case of abuse of process of court. But whether such a defence can be taken into account at this stage is a matter for consideration. Even though, it appears that there was a dispute with regard to the misappropriation of the funds by the 2nd respondent, whether it has any impact upon the present occurrence is a matter for trial. Unless a strong case has been made out by the petitioner, the criminal proceedings cannot be quashed. Since serious allegation of criminal intimidation and snatching away of the voters list, the cheque book and resolution book, I am of the considered view it requires proper trial.

6. In the result, this criminal original petition is dismissed. Consequently, connected Crl.MP(MD)No.400 of 2020 is closed.

7. After passing the order, the learned counsel appearing for the petitioner would submit that the petitioner is a practising Doctor, so on that ground, he wants to dispense with his personal appearance before the concerned trial court.



8.The said request is considered. Considering the profession of the petitioner, his personal appearance is dispensed with. Within 15 days from the date of receipt of a copy of this order, the petitioner must appear before the trial court and file an undertaking affidavit that he will appear as and when required by the court, the attested photograph must be attached in the affidavit and he must ensure that he is properly represented by an Advocate. Accordingly, CMP(MD)No.401 of 2020 is allowed.

Sd/-

Assistant Registrar (Crl side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.941 of 2020
04/02/2022

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