



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.2029 of 2022

and

CRL.M.P (MD) No.1478 of 2022

1.G.Wilson
2.K.Maideen Pitchai
3.G.Madasamy
4.P.Sorimuthu

... Petitioners/Accused 1 to 4

Vs

1.The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli District.
(In Crime No.480 of 2014)

... 1st Respondent/Complainant

2.J.Suyambulingam

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the case in C.C.No.153 of 2016 on the file of the learned Judicial Magistrate, Sivagiri and quash the charge sheet insofar as the petitioners are concerned.

For Petitioners : Mr.M.S.Mohamed Ayub
For Respondents : Mr.B.Thanga Aravindh
Govt. Advocate (Crl. Side) for R1.
Mr.S.Ramsundar Vijayaraj for R2.

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.153 of 2016 on the file of the learned Judicial Magistrate, Sivagiri.

2.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution.

3.The learned Government Advocate (Crl.Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

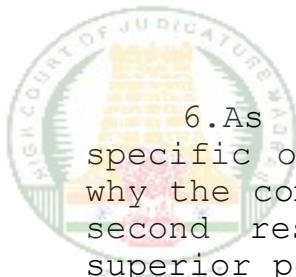
4.Heard the learned counsel appearing on either side.



5. There are totally six accused, the petitioners are arrayed as A1 to A4. The fifth and six accused filed Crl.O.P.No.14531 of 2017 before this Court and this Court by order dated 10.12.2020 held as follows:-

"5. On perusal of the records, it is seen that the second respondent was working as a Secondary Grade Teacher in the second respondent's school and it is a private and Government aided school and second petitioner was transferred to this school, due to deployment from the Government School. Therefore, the second petitioner suffered by the management of the second respondent's school finally she was suspended with charge memo and the same was challenged before this Court in W.P.(MD).No.5509 of 2009 and by order dated 20.08.2009 stayed the suspension order. While being so, the second respondent, without paying subsistence allowance or any salary to the petitioner, lodged a complaint with the above said allegations. Even according to the second respondent, on the instigation of the petitioners herein, A1 to A4 trespassed into the second respondent's school and threatened him with dire consequences.

6. On perusal of statements recorded under Section 161 (3) Cr.P.C., it is seen that the alleged occurrence was taken place on 16.09.2013, whereas the complaint lodged only on 02.11.2014. Therefore, there is no explanation or reasons for the delay in lodgment of the complaint by the second respondent. The impugned proceedings has been initiated as against the petitioners only due to wreck vengeance as against the petitioners and nothing else. It is also seen that the second petitioner challenged the suspension order and charge memo before this Court and obtained order of stay. Insofar as the first petitioner is concerned, he is none other than the husband of the second petitioner and he is no way connected with the alleged occurrence and no averments as alleged as against him. Even as against both the petitioners, charge is that they instigated A1 to A4 and they trespassed into the second respondent's school and threatened the second respondent with dire consequences. Except bald allegation, there is no specific overt act attributed as against the petitioners. Therefore, no offence is made out as against the petitioner as alleged by the second respondent herein. Without application of mind, the first respondent has mechanically filed the final report. Therefore, the impugned proceeding is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners."



6.As far as the petitioners are concerned, though there are specific overt acts as against them, there is no explanation as to why the complaint was lodged belatedly. The learned counsel for the second respondent submitted that he lodged a complaint before superior police officers as well as second respondent on 04.10.2013. However, the police officials had not taken any action on the said complaint. Therefore, second respondent filed a petition before this Court to file the final report on his complaint and during the pendency of the petition only final report was filed. Even assuming that the second respondent lodged a complaint on 04.10.2013, there was a delay of 20 days from the date of occurrence and the date of lodging of the complaint. For the said period of delay, no explanation is forthcoming from the second respondent.

7.In view of the above, this criminal original petition is allowed and the proceedings in C.C.No.153 of 2016 on the file of the learned Judicial Magistrate, Sivagiri are quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T & P)

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/ /2022

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate,
Sivagiri.

2.The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli District.

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

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-13142[F] dated 21/03/2022)

Order made in
CRL.O.P (MD) No.2029 of 2022
17.03.2022

RS (29.03.2022) 3P-5C