



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:26/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.13312 of 2018

and

Crl.MP(MD)No.5990 of 2018

1.Murugesan
2.Bharathi
3.Ayyappan

: Petitioners/A1 to A3

Vs.

M.Karunanithi

: Respondent/Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to CC No.27 of 2018 on the file of the Judicial Magistrate, Paramakudi, Ramanathapuram District and quash the same.

For Petitioners : Mr.R.Shankar Ganesh

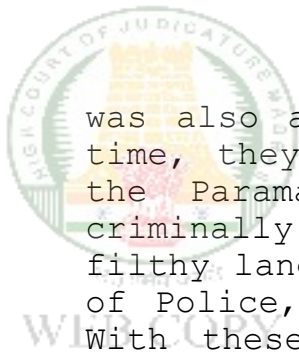
For Respondent : Mr.M.S.Jeya Karthik

O R D E R

The petition has been filed seeking quashment of the case in CC No.27 of 2018 on the file of the Judicial Magistrate, Paramakudi.

2.The case of the respondent before the trial court is as follows:-

The complainant is a practising Advocate in Paramakudi. On 15/01/2018 at about 11.15 am, the accused Nos.2 and 3 intercepted the complainant when he was travelling along with his friend through a two wheeler. A mobile phone as well as the key were snatched by the above said two police constables, they were not in uniform. He made a complaint to the first respondent herein stating that he is having proper document and also riding the two wheeler by following the traffic rules, but the accused Bharathi assaulted him with hands. A1 assaulted him with lathy. When that was prevented by his friend Adaikala Pandi, he was also assaulted. The vehicle was also forcibly taken from them. So the complainant visited the police station and demanded for return of key. Again he was assaulted. Adaikala Pandi



was also assaulted. They have also criminally intimidated. At the time, they also snatched a cell phone. So the complainant visited the Paramakudi Police Station. At that time, the 4th accused criminally intimidated the complainant and his friend and abused in filthy language. A formal complaint was given to the Superintendent of Police, on 15/09/2018 through online, but there was no action. With these allegations, he filed a private complaint before the Judicial Magistrate, Paramakudi, Ramanathapuram District, which was taken cognizance in CC No.27 of 2018.

3. Seeking quashment of the same, A1 to A3 have filed this petition on the ground that the petitioners were performing their official duty and the respondent was riding the two wheeler without following the traffic rules. Since they have discharged their official duty, the complaint itself is not maintainable. More-over, the allegation mentioned in the complaint does not attract any of the ingredients of the offences, that are alleged in the petition.

4. Heard both sides.

5. From the perusal of the records and the sworn statement of the complainant and other witnesses, it is seen that some sort of trouble arisen between the de-facto complainant and the traffic police, who was on duty on 15.01.2018 near the Paramakudi Police station.

6. According to the petitioners, the respondent did not follow the traffic rules. But no documentary evidence has been produced by the petitioners to show that the respondent did not follow the traffic rules. So they were charged. No doubt, the petitioners discharged their official duty during the relevant time. There is an allegation of criminal assault and abusing in filthy language. But no wound certificate was produced along with the complaint. So whether the respondent was assaulted by the petitioners is a matter for consideration by the trial court during the course of evidence.

7. Perusal of further records shows that the 5th accused Muruganandam has filed Crl.OP(MD)No.2024 of 2019 seeking quashment of the case in CC No.27 of 2018 and that was dismissed as withdrawn. Similarly, another accused namely N. Shanmuganathan, who is A4 also filed Crl.OP(MD)No.4330 of 2018 and that was also dismissed for non prosecution, on 28/09/2019. When the quash petition filed by the co-accused have been dismissed for non prosecution or by way of withdrawal, it may not be proper on the part of this court to quash the criminal proceedings against the petitioners.

8. As mentioned earlier, whether they have assaulted or not is a matter for consideration by the trial court. So I am of the considered view that this is not a fittest case to quash the entire criminal proceedings. But however, finding that the petitioners are



appearance is dispensed with before the trial court.

9. In the result, this criminal original petition is **dismissed**. But however considering the fact that these petitioners are working in various cadres in the police department, their personal appearance is dispensed with before the trial court. Within 15 days from the date of receipt of a copy of this order, the petitioners must appear before the trial court and file an undertaking affidavit that they will appear as and when required by the court and they must ensure that they are properly represented by an Advocate. Further, considering the fact that this occurrence said to have been taken place in 2018, there shall be a direction to the trial court to expedite the trial process and complete the same within a period of five months from the date of receipt of a copy of this order. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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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,
The Judicial Magistrate, Paramakudi.

Copy to

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.S. JEYAKARTHICK, Advocate (SR-21932[F] dated 28/04/2022)

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-22927[F] dated 29/04/2022)

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