



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.12.2021

PRONOUNCED ON: 31.01.2022

CORAM

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THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

Crl.O.P. (MD)No.14327 of 2018

and

Crl.M.P. (MD)No.6418 of 2018

1.Kasthuri
2.Amala
3.Muthulakshmi
4.Muthukannu
5.Chinnathambi
6.Suresh
7.Barath : Petitioners/Accused Nos.1 to 7

Vs.

State represented by

1.The Sub Inspector of Police,
Thiruvegampet Police Station,
Thiruvegampet,
Sivagangai District.
In Crime No.2 of 2018. : 1st Respondent / Complainant

2. S.Chandrasekaran,
Village Administrative Officer,
No.78, Vijayapuram Group,
Devakottai Taluk,
Sivagangai District. : 2nd Respondent/Defacto complainant

PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for the records pertaining to S.T.C.No.367 of 2018, on the file of the Judicial Magistrate Court, Devakottai and quash the same.

For Petitioners : Mr.C.Jeya Prakash

For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
for R.1

: No Appearance for R.2



ORDER

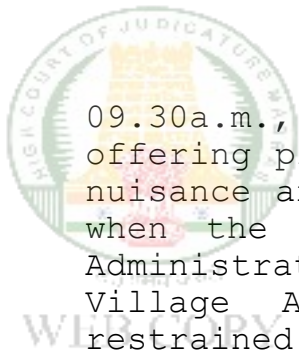
This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records pertaining to the case in S.T.C.No.367 of 2018, on the file of the Judicial Magistrate Court, Devakottai and quash the same.

2. The petitioners are the accused Nos.1 to 7 in S.T.C.No.367 of 2018, on the file of the Judicial Magistrate Court, Devakottai. On the basis of the complaint lodged by the second respondent/defacto complainant, who was the then Village Administrative Officer of No.78, Vijayapuram Group, Devakottai Taluk, F.I.R., came to be registered in Cr.No.2 of 2018 against the petitioners herein for the alleged offences under Sections 147, 294 (b) and 353 I.P.C.

3. The first respondent, after completing investigation, has laid the final report under Section 173 Cr.P.C., against the petitioners for the same offences under Sections 147, 294(b) and 353 I.P.C., and the same was taken on file in S.T.C.No.367 of 2018 and is pending on the file of the Judicial Magistrate Court, Devakottai.

4. It is not in dispute that the first petitioner has filed a writ petition in W.P.(MD)No.15161 of 2017 for issuance of a Writ of Mandamus directing the Inspector of Police, Devakottai Taluk Police Station to provide adequate police protection for conducting Kumbabishegam of Arulmigu Sri Muthumariamman temple, Uvarkulam Village, Sarugani Post, Devakottai Taluk, Sivagangai District, scheduled to be held on 03.09.2017 and 04.09.2017 by impleading the District Collector, Sivagangai District and a third party by name Chockalingam, S/o Karuppan. In the said writ petition, since the writ petitioner apprehended that the third respondent therein viz., Chockalingam would interfere with the peaceful conduct of Kumbabishegam, this Court, in order to resolve the issue amicably, called upon the writ petitioner as well as the third respondent - Chockalingam to appear in person. Since the issue could not be resolved, this Court has directed the second respondent - Inspector of Police to grant permission and provide adequate police protection for conducting Kumbabishegam and also gave an opportunity to the third respondent Chockalingam to distribute viboothi packets outside the temple premises, but without printing the name of any person.

5. It is evident from the complaint lodged by the second respondent that there existed a dispute and enmity between two groups viz., "A" group led by Chockalingam and "B" group led by the first petitioner. The case of the prosecution is that as per the decision taken at the peace committee meeting conducted by the Tahsildar, "A" group people were allowed to offer their prayers for the period between 09.00a.m., and 10.00p.m., on 14.01.2018 and also directed for police protection, that on 14.01.2018 at about



09.30a.m., when "A" party people were making pongal and were offering prayers, the petitioners belonging to "B" party had caused nuisance and prevented "A" party people from offering prayers, that when the same was questioned by the second respondent Village Administrative Officer and his assistant, they had abused the Village Administrative Officer in filthy language and also restrained them from discharging their official duties.

6. The learned Counsel for the petitioners would submit that there is no overt act regarding the alleged offences against the petitioners and no ingredients have been shown in the F.I.R., as well as in the final report and as such, the same does not disclose any offences. He would further submit that no obscene words were used by any of the petitioners and there was no specification about the acts alleged to have been done by the accused either in the F.I.R., or in the charge sheet. He would further submit that "A" party has already filed a suit in O.S.NO.67 of 2017, on the file of the District Munsif Court, Devakottai regarding the very same issue and their injunction application in I.A.No.1101 of 2017, after enquiry, was ordered to be dismissed on 16.12.2017, that the first respondent has not considered the pendency of the suit and the dismissal of the injunction application, that the first respondent had mechanically registered the F.I.R., even without conducting any enquiry and laid the final report and that if the same is allowed to stand, that leads to abuse of process of law and therefore, the proceedings are liable to be quashed.

7. It is pertinent to mention that, as rightly pointed out by the learned Counsel for the petitioners, one Kalimuthu and others have filed a suit against the petitioners and others in O.S.No.67 of 2017, on the file of the District Munsif Court, Devakottai and that "A" party people have also filed an application in I.A.No.1101 of 2017 seeking temporary injunction restraining "B" party people from conducting daily poojas and other festivals in the absence of "A" party people at Arulmigu Sri Muthumariamman Temple and that the learned District Munsif, after conducting enquiry, has passed an order dated 16.12.2017, dismissing the said petition.

8. As already pointed out, the first petitioner has filed a writ petition and got order directing the authorities to grant permission and to provide police protection and also permitted the said Chockalingam - third respondent therein, who is heading "A" party to distribute the viboothi packets outside the temple premises. Considering the above, it is clearly evident that there existed previous dispute and enmity between "A" and "B" groups in the said village.

9. The main complaint of the second respondent is that the petitioners had abused him in filthy language and restrained him and his assistant from doing their official duty. At this juncture, it is submitted that the petitioners refer the judgment of the Hon'ble Supreme Court in



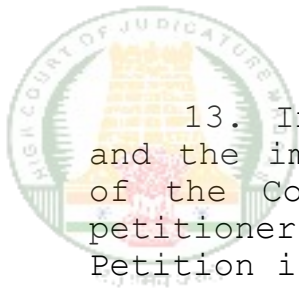
Manik Taneja and another vs. State of Karnataka and another reported in **(2015) 7 SCC 423** and the relevant passage is extracted hereunder:-

"12. A reading of the above provision shows that the essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to prevent the second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, that the ingredients of the offence under Section IPC are not made out."

10. In the case on hand also, it is not the case of the second respondent that the petitioners have assaulted him or his assistant or used criminal force with an intention to prevent and deter them from discharging their duties. There is absolutely no materials to show that the petitioners have assaulted the second respondent or any other public servants or used criminal force and prevent the second respondent from discharging their official duties. Considering the uncontroverted allegations, this Court is of the view that the ingredients of the offence under Section 353 I.P.C., are not made out.

11. Now turning to Section 294(b) I.P.C., as rightly contended by the learned Counsel for the petitioners, the second respondent in his complaint, has not whispered about the filthy or obscene words allegedly uttered by the petitioners. Even in the final report, the filthy or obscene words allegedly uttered by the petitioners does not find place. Even assuming that the petitioners have abused the second respondent in filthy language, there is neither any averment nor any proof to establish that the same caused annoyance to others.

12. Considering the above, this Court has no other option, but to say that the ingredients for the alleged offences are not made out and that therefore, permitting the prosecution to continue the proceedings in S.T.C.NO.367 of 2018 pending on the file of the Judicial Magistrate Court, Devakottai against the petitioners is not only unnecessary but also not warranted. Hence, this Court concludes that the proceedings in S.T.C.NO.367 of 2018 pending on the file of the Judicial Magistrate Court, Devakottai against the petitioners are liable to be quashed.



13. In the result, the Criminal Original Petition is allowed and the impugned proceedings in S.T.C.No.367 of 2018, on the file of the Court of Judicial Magistrate, Devakottai as against the petitioners are quashed. Consequently the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (AE)

// 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 Judicial Magistrate, Devakottai.
- 2.The Sub Inspector of Police,
Thiruvegampet Police Station,
Thiruvegampet,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.14327 of 2018
31.01.2022

RD(24.02.2022) 5P 4C