



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.20891 of 2021

and

Cr.M.P. (MD)Nos.12001 & 12002 of 2021

WEB COPY

1.Mohammed Sha

2.Mohammed Akbar Sha

...Petitioners/Accused No.1 & 2

Vs.

1.The State represented by
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.
(Crime No.209 of 2017)

...1st Respondent/Complainant

2.Shanmuganathan,
Head Constable, (L&O)
Palayamkottai Police Station,
Tirunelveli.

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the impugned private complaint in C.C.No.148 of 2017 pending on the file of the learned Judicial Magistrate Court No.I, Tirunelveli and quash the same insofar as the petitioners are concern.

For Petitioners : Mr.V.M.Jagadeeshapandian

For Respondents : Mr.T.Senthil Kumar

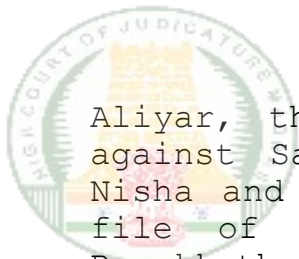
Additional Public Prosecutor for R.1

ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

2. The petitioners are facing trial in C.C.No.148 of 2017 on the file of the learned Judicial Magistrate No.1, Tirunelveli, for the offences under Sections 341, 353 and 506(1) IPC.

3. It is seen that one Nilofar Nisha had filed a Maintenance Case against her husband. The first petitioner herein who is a practising lawyer, is representing Nilofar Nisha's husband. It is further stated that Nilofar Nisha's father Sahul Hameedhu felt offended by the first petitioner's professional act and came to the house of the first petitioner and create a ruckus. Hence, Asan



Aliyar, the father of the petitioners herein lodged a complaint against Sahul Hammedhu and his family members including Nilofar Nisha and the same was registered in Crime No.207 of 2017 on the file of Palayamkottai Police Station. As a counter blast, Barakkath, mother of Nilofar Nisha gave a counter complaint and the same was registered in Crime No.208 of 2017. Asan Aliyar and the second petitioner herein are figuring as accused in the said case. It is further stated that in connection with the said Crime No.208 of 2017, the second respondent came to the house of the petitioner on 01.03.2017. The second petitioner was taken by the second respondent herein to the Police Station. This was obstructed by the first petitioner. That gave rise to the registration of Crime No.209 of 2017. It was chargesheeted and cognizance of the offence was taken and the case itself is pending on the file of the Judicial Magistrate No.1, Tirunelveli in C.C.No.148 of 2017.

4. When the matter was taken up for hearing on the last occasion, I made it clear to the petitioner's counsel that the first petitioner will have to personally apologize to the defacto complainant. The suggestion given by this Court was taken in good spirit and the first petitioner went to Palayamkottai Police Station on 05.01.2022 and personally apologized to the defacto complainant. The photograph taken on the occasion has also been seen by the Court.

5. The first petitioner is a practicing lawyer. When his brother / the second petitioner herein, was taken by the second respondent, probably he felt agitated and out of emotion, he had committed the acts in question. It is not necessary that this should lead to criminal prosecution. Crime No.209 of 2017 is a direct fall out of the police action taken in Crime No.208 of 2017. It is seen that Crime Nos.207 of 2017 as well as 208 of 2017 have been quashed on the basis of compromise between the parties. What gave rise to the present prosecution itself had been compromised. It is ridiculous to continue the present prosecution. Moreso, when the first petitioner sincerely regrets his emotional outburst. The continuation of the impugned prosecution is not warranted and it stands quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

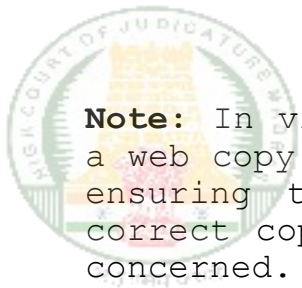
Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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.

WEB COPY

To

- 1.The Judicial Magistrate No.I,
Tirunelveli.
- 2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD)No.20891 of 2021
and
Cr.M.P. (MD)Nos.12001 & 12002 of 2021
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