



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.16467 of 2018

and

Crl.MP(MD)Nos.7296 and 7297 of 2018

WEB COPY

S.Velu @ Velraj : Petitioners/A3

Vs.

1.The State represented by
The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
(Crime No.294 of 2017) : R1/Complainant

2.Mr.Anter Allwin : R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.24 of 2018 pending on the file of the Judicial Magistrate No.2, Nagercoil and quash the same.

For Petitioners : Mr.T.Lajapathi Roy

For 1st Respondent : Mr B.Nambi Selvan
Additional Public Prosecutor

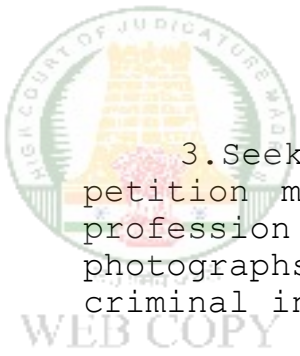
For 2nd Respondent : Mr.N.Dilip Kumar

O R D E R

This criminal original petition is filed seeking quashment of the case in CC No.24 of 2018 pending on the file of the Judicial Magistrate No.2, Nagercoil.

2.The case of the prosecution in brief:-

On 20/06/2015 at about 7.58 am, the accused persons trespassed into the complex premises. They also took photographs of the premises and the compound, which caused death fear in the mind of the de-facto complainant. All the accused persons are charged under sections 109, 448 and 506(2) IPC. After completing the formalities of investigation, final report was filed in CC No.24 of 2018 before the Judicial Magistrate No.2, Dindigul.



3. Seeking quashment of the same, A3 has preferred this petition mainly on the ground that he is only a land broker by profession and he went to the premises for the purpose of taking photographs for showing the same to the clients and except this, no criminal intimidation or intention on his part.

4. Heard both sides.

5. At the outset, the learned counsel appearing for the second respondent would submit that the de-facto complainant is an Advocate by profession and he got issue with his sister by name Anitha Princy and three attempts were made on his life, at the instance and instigation of the above sister. In respect of the above said three occurrences, CC No.363 of 2012 and 7 of 2015 are pending before the court. On the particular date namely 26/05/2017, two persons came by a two wheeler and they parked the same near the premises and trespassed into the complex and they took photographs of the campus and his two wheeler and when a third party came, all the accused persons went away from that place. According to the second respondent, it is not a mere act of taking photographs by a land broker. According to him, this occurrence should not be taken in isolation from the previous occurrences.

6. When this argument was advanced by the learned counsel appearing for the second respondent, the learned counsel appearing for the petitioner would submit that absolutely, there is no motive between the de-facto complainant and this petitioner and he took the photographs only for the purpose of his profession. Except that, there was no illwill or intention or motivation. No doubt, if the occurrence is taken in isolation from the previous occurrences, this court can straightway reject the prosecution case stating that absolutely, there is no criminality or bad intention involved in this issue, even if it is taken on the face value. Serious allegations have been made by the 2nd respondent on the ground to the effect that only at the instance of his sister, this petitioner also involved in the above said occurrence. This court is of the view that it requires proper trial. During the course investigation, statement of the witnesses have been recorded and also been found that prima facie case is available to proceed against the petitioner also.

7. The learned counsel appearing for the petitioner would rely upon the confession statement of the co-accused for the purpose of argument that this petitioner went to the campus only for the purpose of taking photographs. But however, the learned counsel appearing for the second respondent would rely upon the very same statement for the purpose of argument that the co-accused has given a clear indication of their intention. Only at the instance of this petitioner, other two accused persons have also come to the campus. This confession statement is also a matter for



considering before the trial court.

8. When there was previous enmity between the de-facto complainant and his sister, over which several cases have been registered, for which also the photographs of the de-facto complainant has been produced to show the nature as well as the extend of the injury, that has been caused upon him. I am of the considered view that this is not a fittest case to quash the entire proceedings.

9. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

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/ /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 No.2, Nagercoil.

2. The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.

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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-15604[F] dated 31/03/2022)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-15856[F] dated 31/03/2022)

Crl.O.P. (MD)No.16467 of 2018

30/03/2022

nsn(CO)

TR(12.04.2022) 3P 6C