



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.17146 of 2018

and

Crl.MP(MD)No.7591 of 2018

WEB COPY

Ramasamy : Petitioner/Single Accused

Vs.

1. Inspector of Police,
Melapalayam Police Station,
Tirunelveli.
(Crime No.498 of 2014)

: R1/Complainant

2. Sadagopan : R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.281 of 2016 on the file of the Judicial Magistrate No.V, Tirunelveli.

For Petitioners : Mr.R.Anand
for Mr.P.Samuel Gunasingh

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl. side)

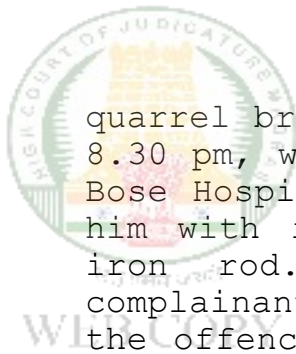
For 2nd Respondent : No appearance

O R D E R

This criminal original petition is filed seeking quashment of CC CC No.281 of 2016 on the file of the Judicial Magistrate No.V, Tirunelveli.

2.The case of the prosecution in brief:-

The de-facto complainant was working as Branch Manager in the Indian Overseas Bank, Tirunelveli branch. The accused was working as Special Cadre Assistant in the above said branch. During his work, it was found that he was not properly attending the duty. One John has retired from service and the accused was required to look after the above said John work also. The accused person refused to oblige that he is an office-bearer of All Indian Overseas Bank Employees' Union and involved in frequent quarrel with the de-facto complainant. Because of that, there was some enmity between them. Over the disobedience of the accused, the de-facto complainant has sent a report to the higher authorities. Because of the above said issue, again trouble arose between them, on 09/08/2014 and again



quarrel broke out and because of the above enmity, on 19/08/2014 at 8.30 pm, when the de-facto complainant walking from his office near Bose Hospital, he was waylaid, abused in filthy language, assaulted him with iron rod and also criminally intimidated by showing the iron rod. Based upon the complaint given by the de-facto complainant, a case in Crime No.498 of 2014 has been registered for the offences under sections 341, 294(b), 323, 324, 506(ii) IPC and after completing the formalities of investigation, final report was also filed, which was taken cognizance in CC No.281 of 2016 by the Judicial Magistrate No.V, Tirunelveli.

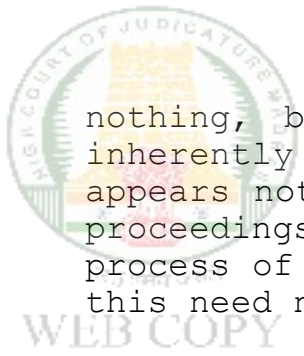
3. Seeking quashment of the same, this petition is filed.

4. Heard both sides.

5. This case gives some sort of disturbing features, The accused is a man of ordinary standing working in a responsible post, that too a Senior Clerk Assistant. But the de-facto complainant is working as Manager in a Nationalised Bank called 'Indian Overseas Bank, Tirunelveli and the accused was working as Senior Clerk Assistant in the above said bank. Some sort of trouble has arisen between them, when the accused failed to carry out the work properly. Because of that, there were some ugly instances.

6. As per the case of the de-facto complainant, on 19/08/2014 at about 8.30 pm, when he was going near the place of occurrence, at the instance and abetment of this accused, when he was nearing the Bye Pass road, three persons waylaid, abused him in filthy language and one of the accused persons, caused assault with iron rod. He escaped from that, but another person attacked with wooden log on his back and another person stabbed him and three accused persons joined together and because of pain in various parts of the body, he made cry and on hearing the screaming noise, the neighbours came, all the accused persons, fled away from the occurrence place. The complainant was admitted in the hospital. He has also stated that only at the abetment of the petitioner, this assault would have been taken place. He was admitted in the hospital and before the Doctor, who examined him has stated that he sustained simple injury, due to assault by three unknown persons. So this shows that there was assault by unknown persons, on 19/08/2014. But the final report goes opposite direction and stated that only this petitioner waylaid the de-facto complainant and abused him in filthy language. During the course of investigation, such a statement appears to have been given by him. Based upon which only, the alternation report has been filed arraying this petitioner as an accused.

7. As mentioned earlier, the de-facto complainant is not a man of ordinary standing. Such a person is capable of giving proper information. But what happened to him subsequent to that is also not clear on record. So this shows that the statement given by him



nothing, but abuse of process of court and law. Since they are inherently improbable and mala fide also. The de-facto complainant appears not to be a genuine person. So continuation of the criminal proceedings against the petitioner will clearly amount to abuse of process of court. In the light of the above facts and circumstances, this need not be taken into account.

8.In the result, this criminal original petition is **allowed**. The impugned proceedings in CC No.281 of 2016 on the file of the Judicial Magistrate No.V, Tirunelveli is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

// 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 No.v,
Tirunelveli.
- 2.Inspector of Police,
Melapalayam Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD)No.17146 of 2018
11/04/2022

SVN (CO)

RK(22/04/2022) 3P 4C