



Crl.O.P.No.5410 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.03.2023

Pronounced on : 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.5410 of 2021

and

Crl.M.P.No.3495 of 2021

Ashokan M

...Petitioner

Vs.

1.The State represented by
The Inspector of Police
Kambainallur Police Station
Dharmapuri District.
(Crime No.33 of 2020)

2.Kuppusamy

... Respondents



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PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records relating S.C.No.26 of 2020 on the file of the learned Principal District and Sessions Court, Dharmapuri and quash the same.

For Petitioner : Mr.M.Guruprasad

For R1 : Mr.S.Balaji

Government Advocate (Crl.Side)

For R2 : No Appearance

ORDER

The petition seeks to quash a final report registered for the offences under Sections 294 (b) of IPC and Section 3 (1) (r) & 3 (1) (s) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Amendment Act 2015.

2.The allegation in the FIR is that on 10.02.2020 at about 5 p.m., when the defacto complainant/2nd respondent who belongs to Adi Dravidar Community was going towards his house, he saw nine persons involved in a heated exchange of words near a temple; that he stopped his cycle and enquired with the persons; that they told him that a person who had received money had refused to repay; that the defacto complainant learnt it was the petitioner who had done so; that he requested him to make payment as they all belonged to one panchayat; that the



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petitioner had abused the defacto complainant stating that it was none of his business in filthy language and insulting his caste. The complaint was lodged on 10.02.2020 and the FIR was registered on 09.03.2020.

3.The learned counsel for the petitioner submitted that the complaint is an after thought. The defacto complainant was instigated to lodge this false complaint to settle a civil dispute between two groups, who were involved in an election in the panchayat. The learned counsel further submitted that the statement of witnesses would show that there was a money dispute between the petitioner and other members of the panchayat. The statements would show that the petitioner's wife had filed a nomination for the post of president of Navalai Panchayat. The prominent persons in the village had requested the petitioner's wife to withdraw her nomination which would enable one Kumutha, the wife of Sivalingam, L.W.4 to win the election. For the said purpose, the said Sivalingam had given a sum of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) to the petitioner to ensure that his wife withdraws her nomination. Thereafter, the petitioner's wife withdrew her nomination. He would submit that the said kumutha lost the election; that the rival group thought that the petitioner had supported another candidate



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who won the election. Hence, the said Sivalingam and others demanded the return of Rs.3,50,000/- paid to the petitioner. The defacto complainant is said to have overheard this conversation between the members of the rival groups in the panchayat and requested the petitioner to pay the money which is highly improbable. The defacto complainant had nothing to do with the alleged transactions and he has been set up by the rival faction to lodge the impugned final report. A civil dispute is sought to be projected as an offence under the SC/ST Act.

4.Mr.S.Balaji, the learned Additional Public Prosecutor submitted that the allegations constitute the offences alleged and hence, he submitted that the points raised by the petitioner that a civil dispute is sought to be projected as a criminal colour has to be adjudicated only during trial. Hence, he prayed for dismissal of the quash petition.

5.Though notice was received by the second respondent, none has entered appearance on his behalf.



6.This Court has gone through the impugned final report and the materials in support of the final report filed by the first respondent. Admittedly, the petitioner was paid Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) on behalf of the rival candidate in a panchayat election to make his wife withdraw her nomination in the election. It is also seen that the rival candidate's wife had lost the election and it is alleged that the petitioner had worked against her after receiving the money. The rival candidate's husband and his supporters demanded money. The defacto complainant / 2nd respondent had nothing to do with this transaction. The allegation is that the defacto complainant had asked a group of persons who were involved in an heated exchange of words as to what was the dispute and thereafter requested the petitioner to pay the money to his rivals. The allegations on the face of it appears to be highly improbable and artificial. The defacto complainant who had nothing to do with the disputes between the petitioner and his rivals in the election is said to have interfered in their dispute which had allegedly resulted in the occurrence. The allegation clearly appears to be a conversion of a civil dispute between two groups in the village which is sought to be projected as a criminal case. The Hon'ble Supreme Court in similar



circumstances in a Judgment reported in **2023 SCC online SC 14**

(B.Venkateswaran and others vs. P.Bakthavatchalam) held as follows:

“3...From the aforesaid, it seems that the private civil dispute between the parties is converted into criminal proceedings. Initiation of the criminal proceedings for the offences under Sections 3 (1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, therefore, is nothing but an abuse of process of law and Court. From the material on record, we are satisfied that no case for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, even prima facie. None of the ingredients of Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out and/or satisfied. Therefore, we are of the firm opinion and view that in the facts and circumstances of the case, the High Court ought to have quashed the criminal proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure. The



impugned judgment and order passed by the High Court, therefore, is unsustainable and the same deserves to be quashed and set aside and the criminal proceedings initiated against the appellants deserves to be quashed and set aside.”

7.This Court finds on facts that a money dispute between two factions in an election has led to the lodging of the FIR. The allegation in the FIR is inherently improbable. The statements of witnesses suggest that it is a civil dispute. The defacto complainant admittedly had no role in the alleged transaction and his version that as a passerby he questioned the petitioner and the petitioner in turn abused him appears to be artificial. The impugned proceedings is clearly an abuse of process of law.

8.For the above reasons, the impugned final report is liable to be quashed and hence, quashed. Accordingly, the Criminal Original petition is allowed. Consequently, the connected miscellaneous petition is closed.

31.03.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
dk/ay



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To

1.The Principal District and Sessions Court
Dharmapuri.

2.The Inspector of Police
Kambainallur Police Station
Dharmapuri District

SUNDER MOHAN. J,

dk/ay

3.The Public Prosecutor
High Court of Madras
Chennai – 600 104.

Pre Delivery Order in

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