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Crl.O.P.No.15984 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.15984 of 2021

and

Crl.M.P.No.8702 of 2021

1. Ramamoorthy
2. Narasimman @ Narasingam ... Petitioners / A1 and A2

-Vs-

1. The Inspector of Police,
Kachirapalayam Police Station,
Kallakurichi District. ... 1st Respondent / Complainant

2. S. Chidambaram ... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in STC.No.32 of 2021 pending on the file of the Judicial Magistrate – I, Kallakurichi.

For Petitioner : Mr. C. Rajan

For R1 : Mr. A. Damodaran,
Additional Public Prosecutor.

For R2 : Mr. S. Sasikumar



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ORDER

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This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C.No.32 of 2021 pending on the file of the Judicial Magistrate - I, Kallakurichi, filed for the alleged offences under Sections 294(b) and 324 of IPC.

2. It is alleged that on account of the dispute over the pathway, the petitioners had abused the defacto complainant and committed the offence of assault and also abused him in filthy language.

3.The learned counsel for the petitioners would submit that with respect to the same occurrence, the 1st petitioner had lodged the complaint against the defacto complainant and others and the respondent police had filed a final report against them for the alleged offences under Sections 147, 294(b), 323 and 506(ii) IPC. The learned counsel submitted that the 1st respondent ought not to have filed final report in both the complaints, which are contrary to each other. Since, the respondent police have violated the guidelines issued under Section 566 of the Police Standing Orders, the impugned proceeding is liable to be quashed.



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4.The learned Additional Public Prosecutor submitted that pursuant to the investigation conducted in both the complaints, the 1st respondent had filed final reports in both the complaints, out of which one is impugned in this quash petition and the other final report is pending trial in C.C.No.19 of 2020 on the file of the Judicial Magistrate – I, Kallakurichi.

5.The learned counsel for the defacto complainant, per contra, submitted that it is true that there is a final report filed against the defacto complainant and others in C.C.No.19 of 2020 as stated by the learned Additional Public Prosecutor. But in any case, the complaint filed by him, which is impugned in this final report is not liable to be quashed. The learned counsel further submitted that in the event of this Court holding that the respondent police has violated the procedure prescribed in the Police Standing orders, the final report against him also is liable to be quashed.

6.This Court had repeatedly held that though the Police Standing orders may not have statutory force, but the instructions in the Police Standing orders are based on common sense and logic and issued



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pursuant to the judgment of this Court reported in **[AIR 1954 Mad 442]**,

Thota Ramakrishnayya & others Vs. The State. The 1st respondent ought to have followed the said procedure. In the instant case, the 1st respondent has merely acted as a post office and filed final reports accepting both the versions as true. As repeatedly held by this Court, there cannot be two versions, which are contrary to each other. Either one of the versions has to be false or both the versions have to be false. This Court cannot allow the impugned final report in S.T.C.No.32 of 2021 and the final report in C.C.No.19 of 2020 on the file of Judicial Magistrate – I, Kallakurichi, knowing that either both are false or one is false. The trial of the accused in both the final reports are likely to be cause serious prejudice to them.

7.In such view of the matter, this Court is of the view, the impugned final report in S.T.C.No.32 of 2021 and the final report in C.C.No.19 of 2020 on the file of the learned Judicial Magistrate – I, Kallakurichi, pending against the defacto complainant and others, are liable to be quashed, though the defacto complainant has not filed any quash petition.



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8. With the above observations, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

26.06.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To,

1. The Inspector of Police,
Kachirapalayam Police Station,
Kallakurichi District.
2. The Judicial Magistrate - I, Kallakurichi.
3. The Public Prosecutor,
High Court of Madras.

SUNDER MOHAN,J.

smv



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