



Crl.O.P.No.20163 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.20163 of 2021

and

Crl.M.P.No.10983 of 2021

1.S.Vijaya Kumar
2.V.Thenmozhi
3.D.Indirani
4.M.Dhayala Kumar
5.R.Pappa

... Petitioners

Vs.

1.D.Kanniyammal (Deceased)

2.Kalaiselvi

... Respondents

[R.2 impleaded as per order of his Court dated 02.06.2023 made in Crl.M.P.No.6320 of 2023 in Crl.O.P.No.20163 of 2021.]

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the proceedings in CC.No.128/2016 pending trial on the file of the Learned District Munsiff Cum Judicial Magistrate, Thittakudi, Cuddalore District and quash the same.

For Petitioner : M/s.S.Suresh

For Respondent: M/s.Shaikh Mehrunisa [R.2]

: Died [R.1]



ORDER

The petition is to quash the private complaint filed for the offences under Sections 147, 294(b), 341, 432, 323 and 506(i) IPC.

2. It is alleged in the complaint that on 03.07.2015 at about 5 p.m. the petitioners went to the house of the respondent and abused the respondent and her daughter in filthy language and attempted to assault and attack the respondent with Aruval; that the other accused had attacked the respondent with hands and rods; that the respondent had given a complaint about the incident to the police and that since they had not taken any action, the respondent had filed the impugned private complaint.

3. The learned counsel for the petitioners submitted that in respect of the same occurrence, the respondent's son had lodged an FIR before the Inspector of Police, Ramanatham Police Station, Thittakudi, in Crime No.124/2015, for the alleged offences under Sections 147, 148, 294(b), 323, 324 & 506 (ii). The said FIR was investigated and the police had filed a final report in C.C.No.162/2016, on the file of the Judicial Magistrate Thittakudi.



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4. The learned counsel took us through the contents of the final report which is the same as that in the private complaint which is impugned in the quash petition. Since the case of the respondent has been investigated into and the final report was filed which is pending trial before the learned Magistrate, the impugned complaint cannot be sustained.

5. The learned counsel for the respondent however submitted that the complaint given by the respondent was not investigated by the police and hence she had to file the private complaint. The learned counsel further submitted that since there is a police report and the private complaint in respect of the same occurrence, Section 210 Cr.P.C. is applicable and the learned Magistrate can conduct trial in respect of both the cases together and hence no prejudice would be caused to the petitioners herein.

6. This Court is of the view that the provisions of Section 210 Cr.P.C. is not applicable. In the instant case, the final report was filed as early as on 21.08.2015. A reading of Section 210 Cr.P.C. would show that if a complaint is pending adjudication before a learned Magistrate and if it is



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brought to the knowledge of learned Magistrate that an investigation is pending in relation to the said offence by the police, then the learned Magistrate shall stay the proceedings of the trial in relation to the complaint and await the result of the investigation conducted by the police and thereafter conduct the trial in both the cases together. In the instant case, as stated earlier, the final report was filed on 21.08.2015 in which the allegations or the grievances of the respondent have been addressed. In such circumstances, the private complaint on the same set of facts filed on 06.09.2016, one year after the final report is not maintainable and hence liable to be quashed. However, it is open to the respondent to pursue all her remedies in C.C.No.162/2016, in the manner known to law.

7. For the following reasons, the petition to quash the impugned private complaint is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

14.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To
The District Munsiff Cum Judicial Magistrate,
Thittakudi, Cuddalore District.



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SUNDER MOHAN. J.

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