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Crl.O.P.Nos.27422 and 29684 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADURAI

Reserved on : 30.06.2023

Pronounced on : 07.07.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.27422 & 29684 of 2022

and

Crl.M.P.Nos. 16846 & 18191 of 2022

1.Kamalam

... Petitioner / A1
in Crl.O.P.No.27422 of 2022

2.Karunanithi

... Petitioner / A2
in Crl.O.P.No.29684 of 2022

Vs.

R. Seenivasan

... Respondent / Complainant
in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned C.C.No.89 of 2022, on the file of the Judicial Magistrate No.1, Kopichettipalayam, quash the same.

For Petitioners	:	Mr. K. Goviganesan in Crl.O.P.No.29684 of 2022 and For Mr.M.Marudhachalam in Crl.O.P.No.27422 of 2022
For Respondent	:	Mr. S. Namasivayam



COMMON ORDER

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Seeking to quash the proceedings in C.C.No.89 of 2022, pending on the file of the learned Judicial Magistrate No.1, Gobichettipalayam, the petitioners are before this Court with these petitions.

2.The respondent/complainant has filed a private complaint in C.C.No.89 of 2022, on the file of the learned Judicial Magistrate No.1, Gobichettipalayam, against the petitioners, for the alleged offences under Sections 465, 500, 109 and 120-B of IPC., against the accused. The first petitioner/A1 is the mother of the complainant; the 2nd Petitioner/A2 is the son-in-law of the 1st Petitioner/A1 and against one M/s.Raj Gas Agency, rep. by its Proprietor, Gobichettipalayam, who is arrayed as A3.

3. The gist of the case is that the respondent is a retired Government Servant. He was a LPG consumer with M/s.Raj Gas Agency/A3 and his Consumer Number is RAGA 4751/1989. On 20.03.1989. The complainant herein left his hometown and went to Chennai, sine he got employment at the Secretariat, Government of Tamil Nadu. Thereafter, the petitioner/A1, who is the mother of the complainant, was using the said LPG and the complainant never approached A3 to effect any name transfer in respect of his LPG connection. The further complaint is that during an enquiry in connection with CSR No.275 of 2013, the



2nd Accused in this case had given a letter, dated 17.06.2021 informing that the respondent / complainant had sought apology with his mother / A1 and thereafter, CSR was closed. The petitioner later collected certain documents through RTI and found that the main allegation in the complaint in CSR No.275 of 2013 is that on 19.07.2013 the respondent and his brother Selvaraj had questioned about the 'Will' executed in Document No.115 of 2012, in favour of son of A2. They had also assaulted her by using belt. The respondent / complainant on 19.07.2012 was on a training programme attending the District Collector Office, Krishnagiri. Hence, by lodging the false complaint, the petitioner had defamed the complainant / respondent. Further, A3 in this case conspired and abetted the offences by A1 and A2.

4. The complainant approached the M/S Raj Gas Agency in June 2019 to surrender the gas connection, which was in the name of the complainant, as he had another gas connection in the name of his wife before his marriage. It was then that the complainant came to know that the name of the gas connection in the complainant's name was changed to the name of A1, under "transfer of gas connection in the name of one member of a family to another member with consent" in the year 2015. When the complainant received the documents in the possession of M/s Raj Case Agency/A3, Gobichettipalayam on 12.10.2021, the application for name change was written by A2, as A1 knows only to put her signature in Tamil, but she cannot read and write Tamil and English. A1 was



under the care of A2. So, it was A2, who changed the LPG cylinder connection in the name A1. A3 assisted in changing the LPG gas connection to the name of A1. A3 acted arbitrarily without calling the complainant and enquire him, before changing the LPG connection to A1. In this regard, the complainant sent complaints to various statutory authorities, including 'The Hon'ble Chief Minister Cell'. Since, no effective steps have been taken by the Authorities, he filed a private complaint before the learned Judicial Magistrate No.1, Gobichettipalayam, which was taken on file in C.C.No.89 of 2022.

5. Mr.K. Goviganesan, the learned counsel appearing for the petitioners/A1 and A2 would submit that the petitioners never committed any offence, in fact, on the instructions of the complainant, the name of LPG connection was transferred and the complaint has been filed with false allegation, due to differences between him and the petitioners in respect of the family dispute. The complaint lodged after 7 years of the alleged occurrence. The complainant was never with his mother / A3, neglected to take care of her. Complaint left to Chennai after securing the Job. After his marriage, he was totally neglected his mother/A1. In fact, A1 wrote a 'Will' in favour of her daughter's children, on coming to know the same, the complainant started quarrel and forced her to cancel the same and settle the property in his favour. Subsequent to the threat by the complainant, A1 settled the property by way of Settlement Deed in Doc.No.2330 of 2013 to her daughter's children.



6. Earlier, the complainant preferred a complaint before the Inspector of Police, Gobichettipalayam and the same was closed at his own instance on 17.04.2021 and thereafter, on 26.05.2021, the complainant made an appeal by stating that his complaint needed to be further investigated and latter, he not pressed the complaint. On the very same set of allegations, the complainant has once again preferred the present complaint against the petitioners for his personal vendatta in respect of the property dispute. Hence, the learned counsel prays to quash the proceedings.

7. The petitioner further submitted as regards A2, the complaint made in a mere presumption that the application of name transfer for gas connection was filled up by A2, other than complaint allegation, there is no material in any for; as regards A2, the allegation is by abetment and conspiracy, this swaging allegation is without any material. The complaint foisted to spite venom to brook vengeance for a private dispute.

8. Mr. S. Namasivayam, the learned counsel appearing for the complainant would submit that the complainant was working as under Secretary, Government of Tamil Nadu, who retired from service on 31.05.2019. A1 is the mother of the complainant; A2 is the son-in-law of the A1 and husband of Mrs.R.Manonmani, sister of the complainant. A2 is a retired employee of Tamilnadu Electricity Board. The complainant is the customer of M/s.Raj Gas Agency, Distributor of



Bharat Gas, situated at No.24C, C.K.K.Nagar, is having Consumer No. RAGA 4751/1989. The above LPG gas connection was used by the complainant and A1 and A2 are well aware of this. On 20.03.1989, the complainant, went to Chennai. The father of the complainant passed away on 15.12.2011. However, A1 was using the gas connection at the above address, where he was residing. The complainant never approached M/s Raj Gas Agency situated at Gobichettipalayam to change the said gas connection to any name. The complainant approached the said M/s Raj Gas Agency in the month of June 2019 to surrender the gas connection in the name of the complainant as he had another gas connection in the name of his wife before his marriage. It was only then complainant came to know that the name of the gas connection in the complainant's name was changed to the name of A1 under scheme of "transferring a gas connection in the name of one member of a family to another member with consent" in the year 2015.

9. The complainant, on verification of the documents, which are in the possession of M/s Raj Case Agency/A3, Gobichettipalayam on 12.10.2021, came to know that the application for name change was written by A2, as A1 knows only to put her signature in Tamil, she cannot read and write Tamil and English language. A1 was under the care of A2. So, it was A2, who changed the LPG cylinder connection in the name A1. A3 assisted in changing the LPG gas connection to the name of the A1. A3 acted arbitrarily without enquiring the



complainant and without following the standard procedures, before changing the LPG connection to A1. Since, no effective steps have been taken by the Authorities, on the complaints made by the complainant before the various statutory authorities, he filed a private complaint. Hence, the learned counsel prays for dismissal of the petitions.

10. I have heard the learned counsel appearing on either side and perused the materials available on record.

11. Considering the submissions and on perusal of the materials, it is not in dispute that the 1st petitioner/ A1 herein is the mother of the respondent / complainant and the 2nd petitioner /A2 herein is the son-in-law of A1 and brother-in-law of the respondent / complainant. The 1st petitioner/A1/ is aged more than 80 years and the 2nd petitioner/A2 is aged 70 years. The complainant himself is aged about 62 years. The complainant, after he got appointment in Secretarial service, in Chennai, initially visited his parents, for sometime on Saturdays and Sundays, from 20.03.1989, respondent residing in Chennai. The gas connection, in his name, was permitted by him to be used by his parents in native, served by A3 / M/s.Raj Gas Agency, Gobichettipalayam. On 15.12.2011, the complainant's father passed away. The complainant after he moved to Chennai, he seldom took care of his parents neglected them. As regards the other son, the brother of the respondent/complainant viz, Selvaraj failed to take care of his parents. It was



A1's daughter Manonmani / wife of A2, who took care of A1, who was residing with them, all support with love and affection provided by Manonmani.

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12. The complainant had a late marriage in the year 2013. The complainant as well as his brother Selvaraj totally neglected their mother A1, failed to provide any basic support. She was not only deprived of monetary support, she was deprived of love and affection. Hence, she was forced to stay with her daughter Manonmani / wife of A2, who took care of all needs of A1. A1 finding solace and peace with her daughter, later settled the house property, which was purchased in the year 1961, in the name of her grandsons, viz., Rajkumar and Jayakumar, sons of A2 and Manomani, by way of registered 'Will' in Doc.No.115 of 2001, dated 11.10.2012. This later came to the knowledge of the complainant and his brother, who became furious, picked up quarrel, forced their mother to settle the property, cancel the Will, which was refused by A1, for which she was beaten badly, who took treatment in Government Hospital. Thereafter, a complaint was lodged on 19.07.2013 and on the complaint, CSR No.270 of 2013 assigned. During the enquiry, the respondent and his brother appeared and both sought forgiveness and tendered unconditional apology from their mother, gave an undertaking that they will not disturb her peaceful life and they shall approach the Civil Court as regards the Will.



13. During enquiry, the complainant gave assurance that the gas connection in his name can be used by his mother and he shall make necessary arrangements with the Gas Agency to permit her to continue usage of the gas connection and thereafter, he left back to Chennai. In the year 2015, the Gas Company insisted that only one gas connection is permitted for a family card holder. Since the respondent had migrated to Chennai, his name was deleted from the Family Card, facilitating the respondent to avail a new Family Card in Chennai. On the Oil Companies instruction finding that the gas connection in the name of respondent, whose name deleted from the Family Card, the gas connection got converted to the name of A1, who is the Head of the Family, as per the Family Card. Hence, gas connection registered in the name of petitioner / A1. With ulterior motive, the complainant again took up the property issue. Failing in all front, collected materials through RTI and started giving trouble to the petitioners. Earlier, on 21.12.2020, he sent a complaint to the Hon'ble Chief Minister Cell, Superintendent of Police, Erode, Deputy Superintendent of Police, Gobichettipalayam and Inspector of Police, Gobichettipalayam. Finding that it is a family dispute, police dropped the complaint. Again second complaint given on 05.02.2021, later, a letter was given by the respondent that no further action is required. Hence, the complaint was closed. Again on 26.05.2021, he had made an appeal to the Superintendent of Police, Erode, the Deputy Superintendent of Police, Gobichettipalayam, which was enquired. During enquiry, A2, the 2nd



petitioner herein, gave letters to the police that with the concurrence of respondent, the gas connection registration changed from son to mother, which is now projected that the signatures found therein are forged by A1 and A2, and A3 abetting the accused.

14. In this case, admittedly, no specimen or admitted signatures obtained produced sent for comparison with questionable doubts. In this case, admittedly, what is the document in which disputed signatures of the respondent found and whether it was compared, studied with the writings and signatures of the accused. This exercise not done. In the absence of the same, it cannot be said that the petitioners had committed forgery. With regard to the other allegation of defamation, the respondent's primary contention is that during the period 14.02.2013 to 31.07.2013 he was sent for District Training at Krishnagiri. Hence on the date of alleged occurrence on 19.07.2013, he was attending the Training at Krishnagiri and never visited to Gobichettipalayam. Hence, a false complaint has been made against him by the petitioners and they forcibly obtained an apology letter, which caused defamation. Apart from this, there is nothing show that any imputation, harmed the respondent's reputation directly or indirectly in the estimation of others.



15. The only allegation as against A2 is that, he was the person, who filled up the requisite Forms for change of consumer name and obtained the signatures of A1. Apart from this, there is no other allegation as against him. As regards A3, except effecting change of consumer name, from the name of Srinivasan/complainant to that of his mother Kamalam, on the request made, there is no other allegation. Further, the LPG Consumer No.4751 transferred to the mother's name Kamalam on "transfer by subscriber to a family members'. It is not in dispute that Srinivasan is the son of Kamalam and they are within the family. In view of the same, the transfer has been made. From the above it is seen that the complaint has been lodged with an ulterior motive to spike vengeance and venom against A1 for settling the property in favour of her grandsons, who are sons of A2. This transfer had happened in the year 2015. Further, A1 and A2, both senior citizens, who are in their evening of their life. Their act, utmost it can be said that it is an act done by the person by mistake-of-fact and nothing more. Following the principles laid by the Hon'ble Apex Court in the Judgment in ***State of Haryana and others Vs. Bajanlal and Others*** reported in ***(AIR 1992 SC 604)***, this Court finds that continuation of the above proceedings would amount to abuse of process of law. Hence, the proceedings against the petitioners as well as A3 are liable to be quashed.



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16. In view of the forgoing reasons, these Criminal Original Petitions are allowed and the proceedings in C.C.No.89 of 2022, pending on the file of the learned Judicial Magistrate No.I, Gobichettipalayam, is quashed against the petitioner as well as A3. Consequently, the connected miscellaneous petitions are closed.

07.07.2023

Index : Yes/No
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To

1.The Judicial Magistrate No.I,
Gopichettipalayam

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

VV2/smn2

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