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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.28685 of 2018 and
Crl.M.P.No.16724 of 2018

Ramachandran

.. Petitioner

Vs.

Challenger Durai @ Duraisamy,
(Ex-M.L.A)

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to C.M.P.No.11176 of 2018 on the file of the Judicial Magistrate Court No.VI Coimbatore and to quash the same and to allow the Criminal Original Petition.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.N.Raja Senthoo Pandian

ORDER

This Criminal Original Petition has been filed to quash the proceedings pending in C.M.P.No.11176 of 2018 on the file of the Judicial Magistrate VI, Coimbatore.



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2. The respondent filed a private complaint before the Court below on the ground that the respondent is a political party and he is holding the position of Deputy General Secretary of South Coimbatore District. A joint meeting was scheduled to be held on 17.05.2018 and all arrangements were made for the said meeting. While so, on 17.05.2018, at about 4.00 p.m., the Police officials belonging to Vadavalli Police Station informed the organizer not to conduct the meeting since no permission was obtained from Police to conduct the meeting. The further case of the respondent is that the meeting was thereafter conducted in the house of one Karuppasamy and after the meeting got over at about 9.00 p.m, the respondent and his party men were going towards Coimbatore from Thondamuthur Road. At that point of time, the respondent and his party men are said to have been abused, attacked and their vehicle was also damaged. A complaint was given in this regard to the Vadavalli Police station and no action was taken and even the higher authorities did not act upon the complaint given by the respondent. In view of the same, the private complaint was filed before the Court below and it has been taken cognizance by the Court below for the offence



under Sections 341, 294(b), 323, 354, 506 (ii) I.P.C., and Section 4 of Women Harassment Act.

3. Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mr.N.Raja Senthoo Pandian, learned counsel appearing for the respondent.

4. When the matter was taken up for hearing, on 07.12.2018, this Court passed the following order:

*“Notice to the respondent returnable by six weeks.
Private Notice is also permitted.*

2.It is seen from records that the petitioner is the Sub-Inspector of Police at Vadavalli Police Station, Coimbatore District. He has registered an F.I.R. against the respondent and others and the same is pending in Crime No.120 of 2018, before the same police station. Based on the very same cause of action, the respondent has filed another complaint before the Court below for an offence under Sections 341, 294(b), 323, 354, 506(ii) of IPC and Section 4 of Women Harassment Act.



3.The learned counsel for the petitioner relied upon a judgment of this Court in the case of V.Gowthaman and 4 others and Vs. State, rep. by its Inspector of Police, Chennai, reported in 2018 (4) CTC 252 and submitted that without getting sanction, the Court below ought not to have issued summons to the petitioner.

4.A prima facie case has been made out and there shall be a stay of all further proceedings in C.M.P.No.11176 of 2018, on the file of the Judicial Magistrate No.VI, Coimbatore, for a period of six weeks.

5.The presence of the petitioner before the Court below is dispensed with, pending disposal of the Criminal Original Petition.

6.Post this matter after six weeks. ”

5. The petitioner who is working as a Sub-Inspector of Police, Vadavalli Police Station, Coimbatore District has been arrayed as A2 in the complaint. The petitioner had registered an FIR in Crime No.118 of 2018 on 17.05.2018 against the respondent and 56 others for conducting the meeting without obtaining necessary Police permission and also for indulging in obstructing the traffic for offence under Sections 143, 188 and 341 I.P.C., There was yet another complaint lodged by one Sathish



Kumar on the ground that the respondent and his party men had assaulted him and threatened him of dire consequences and his Car was also damaged and hence FIR was registered against the respondent in Crime No.119 of 2022 on the very same day. Once again, there was yet another complaint given against the respondent and his party men for indulging in activities of disrupting the public in Crime No.120 of 2018 which was registered on 18.05.2018.

6. It is quite unfortunate that the petitioner who was working as Sub Inspector of Police and was doing his duty has been made as an accused in the private complaint and it is quite apparent from the records that the complaint came to be given only to wreck vengeance and as a counter blast for the FIRs that were registered against the respondent.

7. The Court below ought to have made a preliminary enquiry before taking cognizance of the offence and cognizance has been taken mechanically as against the petitioner who is working as Sub Inspector of Police attached to the Vadavalli Police station, Coimbatore. Whatever



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was done by the petitioner was in the course of his official duty and hence the Court below ought not to have taken cognizance of the offence against the petitioner without sanction under Section 197 of Cr.P.C., The continuation of the criminal proceedings against the petitioner will clearly amount to abuse of process of Court which requires the interference of this Court under Section 482 of Cr.P.C.,

8. Accordingly, the proceedings in CrI.M.P.No.11176 of 2018 on the file of the Judicial Magistrate Court No.VI Coimbatore is hereby quashed. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

06.07.2023

Index: Yes/No
Speaking order / Non speaking order
vum



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To
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1.The Judicial Magistrate Court No.VI,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH.J.,

vum

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